THE RATING AND VALUATION ACT, 1925

ANNOTATED

BY

ALEXANDER MACMORRAN, K.C.

AND

JOSHUA SCHOLEFIELD, K.C.

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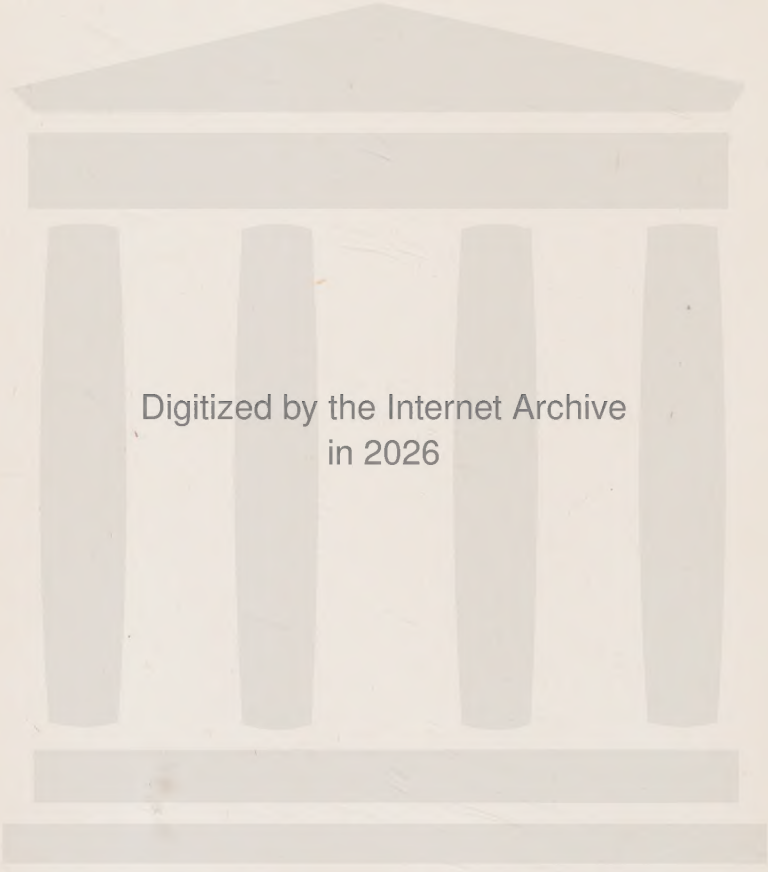
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ANNOTATED

(Being a Supplement to "Lumley's Public Health")

BY

ALEXANDER MACMORRAN

AND

JOSHUA SCHOLEFIELD

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PREFACE

The reorganisation of our system of Valuation and Rating is a matter which concerns the ordinary ratepayer, and above all it concerns the official who has grown up under and administered the existing system, and has now to study and put into operation the new one. To both these the present work is offered in the hope that, though primarily intended to furnish the official with a complete and sufficient guide to the changes effected by the Act and to his duties thereunder, it may yet be found intelligible, and as simple as the subject permits, by the educated layman.

An Act reorganising a system which has been developed gradually by many statutes spread over three centuries and a quarter inevitably presents difficulties; but these the framers of the Act have, in the opinion of the Editors of this work, surmounted with great skill, and the result of their labours is that they have produced a fine piece of drafting work. The Editors, who have followed the measure closely throughout its career, have been much impressed by, and would like to bear testimony to, the great amount of work that has been done upon it.

A. M.
J. S.

Temple Gardens,
February 4, 1926.

INTRODUCTION

The bill which recently passed into law as the Rating and Valuation Act, 1925, was so widely discussed by associations and conferences of local authorities, and received such attention from the daily press, that few readers will open this book without having a general idea of the changes which the Act introduces. Nevertheless it may be convenient to set out here a brief epitome of those changes with references to the sections in which they are to be found :

Rating Authorities.—Overseers abolished, and all rating functions concentrated in borough and district councils, as from 1st April, 1927 (ss. 1, 62).

Rates.—Rural districts : Parochial poor rates abolished as from 1st April, 1927, and replaced by a " general " rate for the district ; lighting rates and special expenses rates replaced by " special " rates (ss. 2, 3).

Boroughs and urban districts : Until the date of the first new valuation list, district poor rate instead of parochial poor rates, other rates as before (s. 1, Sched. VII., 9) ; as from the date of the first new list, one " general " rate for the district (s. 2).

Rating Law.—As from the date of the first new valuation list, plant and machinery divided into two classes, one rateable in full, one wholly exempt (s. 24).

As from the same date the relief now given to agricultural land extended to agricultural buildings (Sched. II., Part II.).

New provisions as to rating of owners of small properties and as to payment of rates by such owners (s. 11).

Provisions as to rating houses " let out " in parts (s. 23).

Provisions for intercepting rent due from tenants and lodgers to a landlord who is in arrear with his payments of rates (s. 15).

Discount for prompt payment of rates (s. 8).

New code as to publication, amendment, collection, etc., of rates (ss. 2, 4—7).

Precepting.—New system to apply to guardians as from 1st April, 1927, and to county councils as from 1st April, 1929 (s. 9).

Existing county council system modified during the interval (Sched. VII., 10).

Valuation.—Areas to be reconsidered with a view to alteration ; county boroughs to be assessment areas if they so decide ; (s. 16).

Assessment committees to be constituted on a new basis (s. 17).

New valuation lists to be made at regular intervals, the first in 1928 or 1929, the second in 1932, 1933 or 1934, and thenceforth a new list quinquennially (s. 19).

Rating authority to obtain returns from owners and occupiers, and then to prepare and deposit draft list (ss. 25, 40); in rural districts the rating authority to be assisted in this work by representatives of the particular parish (s. 1 (4)).

Assessment committee to revise draft list, hear objections and approve (ss. 26—28).

Proposals for amendment of current list to be heard at any time by assessment committee (s. 37).

Appeals against a committee's decision on objections or proposals lie to a committee of quarter sessions in counties, and to the Recorder in quarter sessions borough (ss. 31—36).

The "appointed day" under the Act is the 1st April, 1927 (s. 68). On that day overseers will go out of office, and "rating authorities," *i.e.* the councils of every borough and urban and rural district, will commence their duties under the Act in respect to the making and levying of rates; also the new assessment committees to be constituted under the Act will come into office, and will supersede the present assessment committees appointed under the Union Assessment Acts, 1862 to 1880. On the same date, a new system of precepting will come into operation for guardians.

A considerable amount of preparatory work will, however, have to be done by county councils and local authorities generally before the appointed day, and a brief outline of such work may be useful to all concerned, although it may be taken for granted that explanatory memoranda and instructions will be issued from the Ministry of Health.*

The first matter to claim attention is the constitution of the new assessment areas. Every county borough becomes automatically an assessment area (s. 16 (1)), unless the council of the borough in conjunction with one or more other councils of counties or county boroughs decide to submit a joint scheme for the constitution of a larger area (s. 16 (3)). It devolves upon the county council of each administrative county to prepare a scheme for the constitution of one or more assessment areas within their county (s. 16 (2)), subject, of course, to the provision for joint schemes already referred to. The whole of each rating area (*i.e.* borough, or urban or rural district) *must* be in the same assessment area (s. 16 (2)), and s. 16 (10) sets out the matters to be considered in the constitution of areas.

All schemes must be submitted to the Minister of Health within six months after the passing of the Act. Presumably, therefore, county councils will, without delay, proceed to consider the circumstances of their county and consult the various rating authorities and boards of guardians in accordance with s. 16 (2); and, probably, the first point to which rating authorities will devote their attention will be to discuss (either alone or in conjunction with neighbouring authorities, or with boards of guardians) the advice to be tendered by them to the county council as to whether the local poor law union should be retained as the assessment area, and as to what alterations (if any) in it are desirable.

* Since this book went to press the Ministry have issued a general memorandum (113/R.V.) and a number of circular letters to various classes of authorities.

In the case of an assessment area consisting of a single county borough, the precise constitution of the assessment committee is fixed by s. 17 (3). In the case, however, of an area constituted by scheme, the scheme is to fix the size of the committee, and the number of representatives to be allotted to the county council, and to each rating authority and board of guardians concerned (s. 16 (4)). This point, also, will probably form the subject of early discussion.

When a scheme has been submitted (of which fact notice will be given by advertisement (s. 16 (5)), all authorities concerned will be able to make representations in respect to it to the Minister (s. 16 (6)).

If in any case a scheme is not submitted by a county council within six months of the passing of the Act, the Minister may himself make a scheme (s. 16 (7)). It may be anticipated, therefore, that all schemes will be approved and all assessment areas constituted by the 1st October, 1926, at latest.

By this date, or very shortly after, it will be desirable for county councils to have appointed their representatives on the county valuation committee.

Another matter which rating authorities will doubtless begin to consider at an early date is the question of the staff which they will require in order to carry out their rating duties after the 1st April, 1927. In boroughs and urban districts the problem will be a comparatively simple one, for, even if there is not a system of "joint collection" in force, the authority will already have a nucleus of a rating staff in their own offices. This nucleus will be augmented on the appointed day by the automatic transfer of the parochial rating officers under s. 48, and there should be no great difficulty in deciding how many, and which, members of the combined staffs should be retained, and which (if any) must be compensated for loss of office under ss. 48—50. In rural areas, however, the problem will probably be a more difficult one; for the council will have no rating staff of their own, though the parochial officers of all the parishes in the district will be transferred to them. In the ordinary rural district a centralised system of rate collection from headquarters would be unworkable; and, moreover, the establishment of a new staff, coupled with the payment of compensation to the existing parish officers, would entail serious expense. The circumstances of different districts may vary, and clerks will have assistants of varying experience and ability; but it seems probable that many rural councils will adopt the plan of employing one or two of the most competent assistant overseers at headquarters, whilst retaining the others as local rate collectors until, as vacancies arise, it becomes practicable to group two or more parishes into rate collection districts without any liability for payment of compensation to existing officers.

It may be assumed that all the new assessment committees will be fully constituted by the 1st December, 1926; and it will be necessary for such a committee to lose no time in dealing with preliminary matters, if a new valuation list for any rating area within the committee's area is to come into force on 1st April, 1928 (see Sched. I., 5, as to the validity of a committee's acts, notwithstanding vacancies, etc.). As to the power of the committee to enter *at once* upon any work which, broadly

stated, will not involve interference with the existing union assessment committee, s. 65 should be referred to.

The question of staff and office accommodation will no doubt receive early consideration, but the existing assessment staff will not be transferred to the new committee until 1st April, 1927. In the interval, for the performance of such clerical duties as may be necessary, arrangements will probably be made—under s. 55—to secure the part-time services of some officer who will eventually be transferred.

The appointment of a representative to the county valuation committee will probably be one of the first items of business; but an urgent matter will be consultation with rating authorities, and decision as to which valuation lists are to be prepared so as to come into force on the 1st April, 1928 (s. 19 (3)). This point will require to be settled as early as possible, so that rating authorities may send out notices calling for the necessary returns (ss. 25 (1), 40, 65).

During the winter of 1926—7 rating authorities will be making preparations for taking over their new rating functions, and in certain cases for making a draft valuation list. No doubt amongst the earliest documents to be "prescribed" under s. 58 will be the returns required under ss. 25 (1), 40, and valuation lists, rate books, demand notes, and other documents required in the making and collection of rates.

In January, 1927, it will be necessary for rating authorities to form their estimate of the produce of a penny rate during the financial year 1927—8 (s. 9 (2) (*d*)). Rules as to the method of framing such estimates will doubtless be available in ample time (s. 9 (4)). The estimate must be in the hands of the guardians before the 1st February; and, where the rating area extends into more than one union, a separate estimate will, of course, be required in the case of each part of the area liable to precepts from a separate board of guardians.

Other work requiring to be done before 1st April, 1927, includes the following:—

The liquidation, so far as practicable, of all outstanding liabilities by parochial officers (Sched. VII., 5 (5)).

Preparations for closing overseers' accounts, and transfer of their balances (Sched. VII., 4).

Preparation by rating authorities for submitting schemes under s. 64 (2) for giving effect to any special rating privileges, and under Sched. II., Parts II. and III., for fixing "equated" percentages of relief to railway running lines, etc.

The closing of general parochial accounts by precepting authorities, and preparation by boards of guardians and county councils for issuing precepts in accordance with the provisions of s. 9 and Sched. VII., 10, respectively; framing of estimates by rating authorities, and preparation for making their rates as soon as possible after the appointed day.

Preparations by assessment committees for taking over on the appointed day the work of deciding (under the existing code) objections to the current valuation lists and by rating authorities for making any necessary supplemental valuation lists (s. 69 (3)).

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SUPPLEMENT TO THE PUBLIC HEALTH ACTS.

RATING AND VALUATION ACT, 1925.

(15 & 16 GEO. 5, c. 90.)

AN Act to simplify and amend the law with respect to the making and collection of rates by the consolidation of rates and otherwise, to promote uniformity in the valuation of property for the purpose of rates, to amend the law with respect to the valuation of machinery and certain other classes of properties, and for other purposes incidental to or connected with the matters aforesaid.

[22nd December, 1925.]

PART I.

RATING.

Rating authorities.

1.—(1) The council of every county borough and the council of every urban and rural district shall be the rating authority for the borough or for the county district (*a*), and from and after the appointed day no authority or person other than the council shall have power to make or levy any rate within the borough or district (*b*).

(2) As from the appointed day all powers and duties of the overseers of the poor in relation to the making, levying, and collection of rates, and of any other person who by virtue of any local Act has powers in that behalf (*c*), shall in every rating area be exercised and performed by the rating authority (*d*).

(3) Every rating authority shall for the purposes of their powers and duties under this Act (other than the power of appointing persons to act as members of an assessment committee (*e*)) have the same power with respect to the appointment and authorisation of committees as they have under section two hundred of the Public Health Act, 1875, or subsection (1) of section fifty-six of the Local Government Act, 1894, as the case may be, for the purposes of the Acts relating to the public health (*f*).

38 & 39 Vict. c. 55.
56 & 57 Vict. c. 73.

(4) In the case of a rural rating area (*g*) the parish council of every parish or group (*h*) of parishes, and the parish meeting of every parish not

Section 1. under a parish council, shall be entitled to appoint two persons, being local government electors, to act as members of the rating authority, or of any committee appointed by that authority in pursuance of this section, so far as regards the exercise or performance in connection with property in that parish or group of parishes of any powers or duties of the rating authority under Part II. of this Act, and the persons so appointed shall, for that purpose, but not for any other purpose, be deemed to be members of the rating authority or committee, as the case may be (*i*).

Rates to which the Act applies.

The Act applies to any rate of which the proceeds are applicable to local purposes of a public nature, and which is leviable on the basis of an assessment in respect of the yearly value of property (see s. 68 (1), *post*, for the definition of "rate"). The principal rates, therefore, to which it applies are poor rates, borough rates, general district rates, local Act improvement rates, the few watch rates and highway rates still levied, special expenses rates, lighting and watching rates, and library rates; certain rates such as water rates and sewers rates are expressly excluded from the operation of the Act (see s. 68 (1)).

Existing rates, rating authorities and areas.

In certain places, chiefly boroughs and large urban districts, there are in force either local Acts or Orders containing special provisions with regard to rates and rating, or arrangements for the "joint collection" of poor rates and sanitary rates by a joint staff representing the overseers and the council; but apart from such special provisions or arrangements the present position is as follows:—

Rural areas.

The normal rating area is the parish and the rating authority are the overseers of the poor. In every parish the overseers levy and collect one main rate, the poor rate. It is levied under the provisions of the Poor Relief Act, 1601 (the "Statute of Elizabeth"); and, as its name implies, was intended to provide funds for the relief of the poor of the parish. The relief of the poor has, however, long ceased to be the only, or indeed the chief, service, the cost of which is defrayed out of the poor rate. As local government developed, and as further social services were found to be necessary, the practice was adopted of charging the expenses, or (where the services covered an area larger than the parish) an apportioned share of the expenses, upon the poor rate of the parish. At the present date, when wider areas than the parish—*e.g.* the county, the union, the rural district—have been adopted for all the more important services, only a very small percentage of the yield of the poor rate is applied to purely parochial expenditure: practically the whole of it is required to meet the "precepts"—or demands for money—issued by the rural district council of the district for common sanitary and highway charges, by the guardians of the Poor Law Union for common poor law charges and for the expenses of the county councils (who employ the guardians as their collectors), and in some cases by minor precepting bodies such as joint burial committees.

The expenses of the parish council (if any) and parish meeting, and of most purely parochial undertakings, are met out of the poor rate; but there are certain exceptions, as a result of which there may be found in any parish (in addition to the poor rate) one or more of the three following rates: a lighting and watching rate (for public lighting purposes), a special expenses rate (for such sanitary purposes, *e.g.* water supply and sewers, as are chargeable on the parish and not on the whole district), and a public library rate. Where such rates are found, they, too, are levied and collected by the overseers; but in the case of the two first named, the area over which the rate is levied may not be exactly coterminous with the parish.

The poor rate, except for quite modern reliefs to agricultural land and to tithe, has always been an "equal" rate to which each ratepayer contributed in strict proportion to the annual value of his property. In the case of certain services, however, it was considered that certain classes of property derived less benefit than others, and ought to contribute in a less proportion; and it is to this fact that we owe the existence of the three occasional rates referred to above. They are "differential" rates, in respect of which certain classes of property enjoy a relief which

they would not have enjoyed if the cost of the services had been placed on the poor rate. **Note to Section 1.**

The overseers are, of course, unpaid officials; and except in small parishes they perform to a great extent their rate collecting and other duties through *paid* assistant overseers and collectors of poor rate.

The number of rural parishes in England and Wales is at present approximately 12,880. The effect of the Act will, therefore, be to reduce the number of rural rating authorities and staffs from that figure to 648, the present number of rural district councils. It will be seen that the average number of parishes in a rural district is about 20; there are, however, several districts which contain more than 60, and one at least which contains more than 80 parishes.

It should be noted that throughout the Act the term "parish" is used in a wide sense as including any part of a parish being either a contributory place, or an area otherwise subject to separate or differential rating (s. 68 (4), *post*). It may, therefore, be used as meaning either a parish as a whole, or a part of it separately liable to special sanitary expenses as a "contributory place" under the Public Health Act, 1875, or separately liable to charges for lighting purposes, or other "adoptive Act" purposes.

In boroughs and other urban districts there is at present a duplication of rating authorities. Urban areas.

In every parish within the borough or district the overseers levy and collect the parochial poor rate, out of which they satisfy the requirements of the guardians and the county council. At the same time the council of the borough, or district, levy a sanitary rate over the borough or district, as a whole. The most important sanitary rate is the general district rate; but some places have also a local Act improvement rate, and a few urban district councils still levy a highway rate, usually over part only of the district.

In a borough there is also the borough rate for municipal and educational, as opposed to sanitary and highway, purposes, which the borough council make, and in a few cases may levy for themselves, but which in almost every case they call upon the overseers, to pay out of the poor rate.

The borough rate, like the poor rate, is an "equal" rate, except for the modern reliefs to agricultural land and tithe; the general district rate is a "differential" rate, in respect of which certain properties enjoy partial relief, and so too, as a rule, is an improvement rate.

The Act will reduce the number of urban rating authorities in England and Wales from about 2,660 to about 1,120.

A reader is advised at the outset to study the various definitions contained in s. 68, *post*, noting especially the meaning to be attached to "urban rating area," "rural rating area," "rate," "the Minister," "the appointed day," "date of the first new valuation," "local Act," and "parish." Definitions, forms, general provisions, etc.

It should also be noted that "the Minister" is empowered by s. 58 to prescribe the form of any document required or authorised to be used for the purposes of the Act, and by ss. 66, 67 to make Orders modifying local Acts and removing difficulties which may arise in bringing the Act into operation.

Section 59 contains a general code of provisions as to the service of documents—including demand notes.

See also s. 64 as to savings for existing exemptions and privileges in respect of rating and valuation.

(*a*) A county borough is an "urban sanitary district"; but, as a matter of strict construction of the relevant enactments, it is probably not correctly called an "urban district" (*Kirkdale Burial Board* v. *Liverpool Corporation*, [1901] 2 K. B. 174; 65 J. P. 500). A non-county borough is an "urban district." Urban districts and rural districts are "county districts."

It will be noted that the opening words of the sub-section are not qualified by "after the appointed day." The intention, no doubt, was to make it clear beyond possibility of doubt that the various councils in their capacity of "rating authority"

Note to Section 1.

under the Act might as soon as the Act passed begin to make the administrative arrangements necessary to enable them to take up their new duties on the appointed day—*i.e.* the 1st April, 1927. See further on this point the definite provisions of s. 65, *post*.

It will be seen that ss. 48 and 49, *post*, provide for the transfer of parochial rating and rate collecting officers to the new rating authorities, and for the grant of compensation to any transferred officers whose services are not required. In the case of boroughs and other urban districts there may probably be some redundancy of officials when the staffs of the council and of (perhaps) several parishes within a small geographical area are amalgamated. In a rural district, however, whilst the services of one or two of the more capable parochial officers may be required in the offices of the rating authority, it seems not unlikely that the majority will be continued as part time officers in their own villages, at any rate until vacancies from deaths or resignations offer opportunities for the grouping of parishes and gradual reduction of staff without any obligation to pay compensation.

General power to employ valuers and appoint officers is given by ss. 38, 55; see also s. 56 as to the power to authorise officers to take proceedings for the recovery of rates.

Sections 53, 54 deal with the expenses and accounts of rating authorities.

The borough or district of a rating authority is referred to throughout the Act as "a rating area" (s. 68 (1), *post*).

(*b*) These words are not (see s. 64 (1) (d), *post*) to be read as impliedly repealing such a section as s. 300 of the Public Health Act, 1875, under which a person can be appointed to make a rate in place of a defaulting local authority. They must also be read as qualified by s. 13, *post*, which deals with default in satisfying precepts.

(*c*) These words will cover cases (*e.g.* Norwich and Plymouth) where under the provisions of a local Act the guardians actually levy the poor rate instead of issuing a precept to overseers. "Local Act" includes a Provisional Order (s. 68 (1)).

(*d*) In all areas the rating powers and duties of the overseers of the separate parishes will on the appointed day be transferred to the rating authorities, who, as from that day, will be responsible for levying all necessary rates. Rural councils will at once commence to levy the new general and special rates authorised by the Act (see ss. 2 (2), 3, *post*); but in boroughs and other urban districts there will be an *interim* period during which the council will continue to levy their existing rates, and will also levy a poor rate over the whole district (Sched. VII., 9). The new general rate will commence to be levied as from the date on which the first new valuation list for the urban rating area comes into force (s. 2 (1)).

There will also be transferred to the rating authority the powers and duties of overseers in connection with valuation lists under the existing law—*e.g.* the preparation of any supplemental list that may become necessary between the appointed day and the date of the first new valuation (s. 69 (3), *post*).

As from the appointed day, overseers will cease to be appointed (s. 62 (1), *post*). The Act does not make provision in detail as to the persons to whom their powers and duties in respect of matters other than the above are to be transferred; provision as to this is to be made by Order in Council (*ibid.*).

As to the duty of overseers and their subordinates to give assistance to the new rating authorities and assessment committees, see s. 65, *post*.

Sched. VII., *post*, makes provision as to a number of matters connected with the abolition of overseers, *e.g.* custody of parochial books, transfer of balances and adjustments, collection of rate arrears, discharge of liabilities and final audit of accounts.

(*e*) The rating authority are charged with the duty of preparing the draft valuation list, but will usually entrust this work to a rating committee. It was no doubt for this reason that it was thought better to provide that appointments to the assessment committee—the revising tribunal—shall be made by the council as a whole. It is provided later that a member of an authority's rating committee is not to be a member of the assessment committee (Sched. I. (12)).

Note to Section 1.

(*f*) Section 200 of the Public Health Act, 1875, regulates the appointment and powers of committees in boroughs; in other urban districts and in rural districts s. 56 (1) of the Local Government Act, 1894, applies.

Under neither of the sections referred to can a committee be authorised to make a rate.

(*g*) That is to say, "a rating area being a rural district" (see s. 68 (1)).

(*h*) *I.e.* two or more parishes grouped together for the appointment of a parish council under the Local Government Act, 1894, s. 1 (1) (b).

(*i*) Under this subsection it will be possible to obtain the advantage of the experience and local knowledge of gentlemen who have been overseers of the poor by appointing them to act as members of the rating authority or committee when property in the parish or group is being dealt with.

Levy of, and provisions as to, general rate.

2.—(1) As from the date of the first new valuation (*a*), the rating authority of each urban rating area (*a*), in lieu of the poor rate and any other rate which they have power to make, shall make and levy for their area a consolidated rate which shall be termed "the general rate" (*b*).

(*a*) See definition in s. 68 (1), *post*.

(*b*) It must be noted that, for a reason to be explained later, consolidation of rates is not to take place in an *urban* rating area on the appointed day, but is postponed until the date on which the first new valuation list under this Act comes into force in that area.

In the interval an urban rating authority will, as successors to overseers, levy a poor rate, but over the whole rating area, and not parochially (Sched. VII., 9) and will continue to levy their general district and other rates as at present. Expenditure payable out of poor rate but chargeable on a part only of the urban district will be raised in that part as an "additional item" of the district poor rate (Sched. VII., 9; and cf. sub-s. (5) of this section).

Rate consolidation.

In recent years the consolidation of rates has found favour increasingly in boroughs and urban districts, more particularly in the larger boroughs; and in the session of 1925 some fifteen local Acts were procured for the purpose.

The advantages of consolidation are, it is believed, universally accepted. The amalgamation of the separate rating staffs of the overseers and of the council puts an end to the present duplication of work, both clerical and out-door; and, at any rate when any compensation to displaced officials is cleared off, should lead to substantial economies. Moreover, as is explained in the notes to s. 10, *post*, the amalgamation of funds which accompanies consolidation of rates leads to a great simplification of accountancy work, and also in some cases to a saving in respect of income tax. Ratepayers, too, prefer as a rule to receive a single demand from one authority.

In certain places some of the advantages of rate consolidation have been obtained by arrangements for the "joint collection" of rates by a staff representing both the overseers and the council; but the various rates must still be made separately, and the plan does not dispense with the duplication of printing work and account keeping.

Hitherto, rate consolidations have taken one or other of two forms: "complete" consolidation, which could only be obtained by a local Act, and has been sanctioned in some sixty cases; and "partial" consolidation, which could be obtained by the less expensive procedure of a Provisional Order under s. 303 of the Public Health Act, 1875, where there was in force a local Act upon which that section could operate. In the latter class of case the poor rate is left untouched, but the borough rate and the general district rate (and, it may be, some local Act rate also) are

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amalgamated, and provision is made for the overseers to levy the new consolidated rate on behalf of the council at the same time as they levy the poor rate.

The difficulty attendant upon the consolidation of rates in a borough or urban district arises out of the fact that certain properties pay one or more of the rates in full, but only pay a fraction of another of the rates. For instance, to take the simplest example, in an urban district railway lines pay the poor rate in full, but only 25 per cent. of the general district rate. When these two rates are consolidated into one "general" rate, it is clear that railways cannot be asked to pay it in full, but that, on the other hand, they must be required to pay more than 25 per cent.; in other words, an "equated relief" must be calculated which will, so far as can be foreseen, preserve unaltered the incidence of burden as between railways and ordinary hereditaments.

What this equated relief ought to be depends, of course, in theory upon what in each future year is going to be the "weight" of the poor rate burden and the "weight" of the general district rate burden respectively; and the practice is to take out the figures for a number of years, generally ten, and to assume that the average of those years is likely to hold good for the future. If the figures show that the weight or poundage of the two rates has been equal, the railways, having paid one rate in full and one-fourth of the other, should pay five-eighths—or 62·5 per cent. —of the consolidated rate. If the poundage of the poor rate has been double that of the district rate, the equated percentage will be 75 per cent.; whilst if the poundage of the poor rate is only half that of the district rate, the equated percentage will only be 50 per cent. Similar calculations are necessary in the case of other properties which enjoy relief from one only of the two rates, but not in the case of property, such as agricultural land, which enjoys the same relief from both rates; such property will continue to enjoy the same percentage of relief from the new consolidated rate.

It will be seen (s. 22 (1) (c), Sched. II., Part II.) that in calculating equated reliefs in boroughs and urban districts the present Act follows the local Act practice of taking (where there is not already a consolidating Act in force) the figures of ten years (from 1914 to 1924); but, after making the calculation, a difference or refinement is introduced by giving effect to reliefs in the valuation list instead of in the collection of the rate. For instance, agricultural land, instead of paying 25 per cent. of the new rate on its "net annual value," will pay the full rate on a "rateable value" representing 25 per cent. of its "net annual value," whilst a railway, which—on the figures taken out—should pay 50 per cent. of the new rate, will pay the full rate on a "rateable value" representing 50 per cent. of its "net annual value." See further hereon the notes to s. 22 (1) and Sched. II., Part II. It is for this reason, no doubt, that consolidation in urban areas is postponed until the first new valuation list comes into force.

Under Sched. II., Part II., as from the date of the first new valuation, agricultural buildings will enjoy the same relief as agricultural land.

References in any document to a rate in lieu of which a general rate is levied are to be construed as references to that rate (s. 69 (2)).

(2) As from the appointed day the rating authority of each rural rating area shall, in lieu of making a poor rate for each parish, make and levy a general rate for the whole of the district.

See definition of "rural rating area" in s. 68 (1).

In *rural* rating areas the change from the existing poor rate to the new general rate will take place on the 1st April, 1927. As there is no consolidation requiring the investigation of accounts and calculation of "equated reliefs," there is not the same reason for postponement as there is in the case of urban areas.

In rural districts true consolidation of rates—*i.e.* of several rates into one rate—is impossible. The separate expenses chargeable either on the "equal" poor rate or on the various "differential" rates of the individual parishes vary so much in amount that it would be impossible in any one rate to preserve, even approximately,

the present incidence of burden as between parishes, or as between different classes of property.

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References in any document to the poor rate are to be construed as references to the general rate (s. 69 (2)).

(3) Subject to the provisions of this Act (*a*), every general rate shall be a rate at a uniform amount per pound on the rateable value (*b*) of each hereditament in the rating area, and shall be made, levied and collected, and shall be recoverable, in the same manner in which at the commencement of this Act the poor rate may be made, levied, collected and recovered, and all the enactments relating to the poor rate which are in force at the commencement of this Act, including (subject to the provisions of this Act) enactments relating to appeals against a poor rate, shall, so far as not repealed by this Act, apply to the general rate (*c*):

(*a*) See proviso (a) to this subsection and sub-ss. (5) and (6). The new general rate, both in urban and in rural areas, is to be levied over the whole district (and not in individual parishes); and, so far as is possible, is to be a rate at a uniform poundage, that is to say the bulk of the rate representing expenses common to the whole rating area will be a flat rate charge, whilst additional expenses chargeable on a single parish will (if not raised by a special rate) form an additional item to be levied in the parish concerned.

(*b*) As to "rateable value," see s. 22, *post*.

(*c*) Where two rates made and collected under different codes of procedure are consolidated, it is of course necessary to apply one or other of the existing codes—or a single new code—to the making and collection of the consolidated rate. The Act adopts the plan of applying both to general and to special (see s. 3 (2), p. 12, *post*) rates the poor rate procedure with certain alterations—as to which see proviso (b), sub-s. (4), *infra*, and ss. 4 to 8.

The provisions in the Act relating to appeals against a poor rate here referred to are contained in s. 14, *post*.

Provided that—

(a) In the case of any general rate made in a rural rating area in respect of any period before the date of the first new valuation, the rating authority shall, notwithstanding anything in this subsection, give effect in the collection of the rate to any exemption or abatement to which any person would have been entitled in respect of any hereditament if the rate had been a poor rate; and

This proviso applies only to rural rating areas and is only temporary. As from the date when the first new valuation list comes into force, effect will be given to reliefs in the case of general rates by means of a reduction in the rateable value of the property concerned. Until that date effect will continue to be given to such reliefs *in the collection* of the rate; agricultural land, for instance, will pay one-quarter only of the rate until the coming into operation of a new list in which its rateable value will appear as only one-quarter of its net annual value; as from that date it will, of course, pay the full rate on the reduced value.

As to the application of the Agricultural Rates Act to the new general rate, see s. 69 (2), *post*.

It may be noted that the new relief given to agricultural buildings by Sched. II.,

Note to Section 2. Part II., will not take effect until the first new valuation list made under this Act comes into force.

As to the payment of rates on tithe under the Tithe Act, 1925, see note to s. 68 (2), *post*.

12 & 13 Vict. c. 14.

(b) notwithstanding anything in the Distress for Rates Act, 1849, the justices shall not issue a warrant of commitment in default of distress for non-payment of the general rate against any person who proves to their satisfaction that his failure to pay is due to circumstances beyond his control, but where the justices in pursuance of this provision refuse to issue a warrant the rating authority may, unless the justices at the time of so refusing think fit to remit the payment of the rate (which they are hereby authorised to do), subsequently renew the application for a warrant of commitment on the ground that the circumstances of the person have changed.

At present a ratepayer can be imprisoned for non-payment of poor rates or special expenses rates without proof of means (Distress for Rates Act, 1849, c. 2; Public Health Act, 1875, s. 230). In the case of general district rates, which are recoverable as a "civil debt," the council must prove means.

The Act applies a new provision to both general and special (s. 3 (2), p. 12, *post*) rates; the ratepayer is not to be imprisoned if *he* proves that his failure to pay is due to circumstances "beyond his control," *e.g.* that he is out of work and has no means, and has not disposed of any property with the object of avoiding payment.

Upon an application for a commitment the justices may remit payment; but if they do not do this, and merely refuse a warrant, the rating authority may renew their application at a later date.

(4) A rating authority shall have power to reduce or remit the payment of any general rate on account of the poverty of any person liable to the payment thereof.

In the case of a poor rate and of a special expenses rate, justices may, with the consent of the overseers, excuse payment, in whole or in part, on the ground of poverty (Poor Relief Act, 1814, s. 11; Public Health Act, 1875, s. 230). In the case of general district rates the council can remit (Public Health Act, 1875, s. 225). These sections are repealed by s. 69, *post*, and a new rule is laid down for general and special (see s. 3 (2), p. 12, *post*) rates under this Act: in the first instance the rating authority (and not the justices) may reduce or remit; but under proviso (b) to sub-s. (3) when the rating authority apply for a commitment in default of distress, the justices can, if they think fit, remit payment of the rate.

(5) Where any amount, other than an amount which falls to be raised by means of a special rate under this Part of this Act, is, by virtue of any precept or otherwise, chargeable separately on any part of a rating area, the rating authority shall levy that amount on that part of the area together with, and as an additional item of, the general rate.

In practically all rural parishes and in some urban parishes there will be certain charges which concern only the parish (or a part of it). For instance, in a rural parish there will or may be expenses of the parish council (if any) or parish meeting

(including expenses under the Allotments Acts, Burial Acts, Lighting and Watching Act, etc.), and expenses connected with water supply and sewerage. In an urban parish there may, for example, be expenses of a burial ground not shared with other parishes in the borough or district.

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Moreover, some parishes in a rating area may be in one union and others in another, and in this case the different groups of parishes will be subject to precepts from different boards of guardians, no doubt varying in amount.

When, therefore, any parish, or part of a parish, in a rating area is thus liable to a special charge (not common to, or equal in amount in, all parts of the area), such charge will be excluded from the "flat rate" portion of the general rate levied over the whole rating area, and will be levied in the parish (or part of a parish) or in each of the parishes concerned, either as a "special rate" in cases within s. 3, *post*, p. 11, or as an "additional item" of the general rate. Cf. the transitional provision as to urban poor rates in Sched. VII., 9, *post*.

(6) Expenses incurred under the Public Libraries Acts, 1892 to 1919, by the library authority (not being a county council) of a library district being a parish shall, instead of being defrayed out of a rate raised in manner provided by paragraph (c) of subsection (1) of section eighteen of the Public Libraries Act, 1892, be levied in the library district by the rating authority together with, and as an additional item of, the general rate. 55 & 56 Vict. c. 53.

"Library district *being a parish*." Under the Public Libraries Act, 1892, library districts are boroughs, urban districts, and rural parishes. This subsection, therefore, applies only to the few rural parishes which have become library districts, and in which the Libraries Acts are administered, not by the county council, but by the parish council or parochial commissioners. In such a case s. 18 (1) (c) of the Act of 1892 requires a separate library rate to be raised with and as part of the poor rate, but with a *two-thirds* relief to lands used as arable, meadow, or pasture ground only, or as woodlands or market gardens or nursery grounds. All the relieved properties except woodlands are now within the Agricultural Rates Acts, and, therefore, get the larger *three-fourths* relief.

The Act abolishes the separate library rate in the few rural parishes concerned, and provides that the library expenses are to be raised as an additional item of the general rate. As the agricultural land relief applies to the general rate (including, of course, "additional items"), the only change in the incidence of burden will be that, so far as library expenses are concerned, woodlands will lose their two-thirds relief. The matter is, however, a very small one: in 1922–3 only 43 rural parishes levied a library rate; the total amount levied was under £3,400, the highest rate was threepence in the pound, and in 25 cases it did not exceed one penny. Moreover, under s. 3, woodlands will get an increased relief in the case of the much more common lighting rate.

If in any borough or urban district a separate library rate is made under s. 18 (1) (a), (b), of the Act of 1892—and it is believed that none remain—it will be included in the general rate consolidation under sub-s. (1) of this section.

(7) Section one hundred and thirty-three of the Lands Clauses Consolidation Act, 1845 (which provides that until the completion of the works the promoters of the undertaking shall make good any deficiency of poor rate caused by the lands being taken), shall have effect as though for the references therein to the poor's rate there were substituted references to the general rate, and as though the amount required to be made good by the promoters of the undertaking were 8 & 9 Vict. c. 18.

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in the case of lands situate in an urban rating area one-half of the deficiency in the several assessments to the general rate.

The assessment on which any payment made by promoters under the said section is based shall be inserted in the valuation list and any such payment shall be taken into account for the purpose of ascertaining the proceeds of any rate.

Under s. 133 of the Lands Clauses Consolidation Act, 1845, when the promoters of an undertaking to which that Act applies take lands for the purposes of the undertaking they are required, until their works are completed and assessed to the poor rate, to make good the deficiency in the several assessments to the poor rate by reason of the lands being so taken. The present subsection provides that s. 133 is to apply to the new general rate in lieu of the poor rate. Although, however, in rural rating areas the general rate will be practically identical with the poor rate, in urban areas it will represent the poor rate *plus* one other rate at least. In order to avoid the necessity for an analysis of accounts in order to determine in each case where s. 133 comes into operation how much of the general rate represents the poor rate, the Act, following the precedent of many local rate consolidation Acts, adopts a rough-and-ready rule, and provides that undertakers are to make good one-half of the deficiency in an urban rating area.

Promoters, though liable to make good a deficiency under s. 133, are not liable to be rated (*London Corporation* v. *St. Andrew, Holborn* (1867), L. R. 2 C. P. 574); but the present subsection provides that the assessment on which they make any payment is to be inserted in the valuation list, and the payment is to be taken into account in ascertaining the proceeds of any rate, *e.g.* for the purposes of s. 9, *post*. This will make statistics of total rateable value more complete, and lead to greater fairness in the distribution of common charges.

(8) The provisions of this Act relating to the general rate shall apply to any consolidated rate, by whatever name called, made for any area under any local Act on or after the date of the first new valuation.

As complete consolidation of rates cannot (see p. 5, *ante*) be obtained by Provisional Order, the term "local Act" has not here the extended meaning given to it generally by s. 68 (1), *post*.

Existing local Act consolidated rates are known by various names, city rate, town rate, general rate, consolidated rate, etc.

The effect of the subsection will be to bring (as from a date in the future) all these existing rates under one code of procedure as regards making, recovery, amendment, etc.

(9) Every hereditament in the rating area, whether liable to be rated or not, shall be included in every rate in the rate book.

See definition of "hereditament" in s. 68 (1), *post*, and note thereto.

There are many cases where exemption from rateability depends upon certain conditions of use, and the actual insertion in each rate of all non-rateable hereditaments will ensure their periodical review and will facilitate inquiry as to the continued legality of the exemption. The subsection has presumably been included with the view of applying this safeguard.

See s. 64 (3) as to the method of treating property in respect of which the Crown makes a contribution in lieu of rates.

Section 3.

Levy of, and provisions as to, special rate in rural district.

3 & 4 Will. 4, c. 90.

3.—(1) As from the appointed day the rating authority of each rural rating area shall, in lieu of any rate in respect of expenditure under the Lighting and Watching Act, 1833, and of any rate in respect of special expenses under the Acts relating to public health, make and levy in each part of the area which is liable to be separately rated in respect of any such expenditure or in respect of any such special expenses a separate rate which shall be termed "a special rate" (*a*):

Provided that, where the amount of any such expenditure, or of any such expenses, for any half-year falling to be raised by means of a special rate chargeable on any part of the area is less than ten pounds, or is so small that a general rate of less than one penny in the pound would be sufficient to produce the amount of that expenditure or of those expenses, that amount shall not be levied by a special rate, but shall be levied in that part of the area together with, and as an additional item of, the general rate (*b*).

In this subsection the expression "half-year" means the period of six months expiring on the thirty-first day of March or the thirtieth day of September (*b*).

(*a*) This section applies only to rural rating areas; it deals with two "differential" rates (with slightly different reliefs) which could not be merged in the new general rate without materially altering the incidence of burden as between different classes of property.

Some simplification is, however, attained by assimilating the two different scales of relief, and replacing each of the existing rates by a new "special" rate.

A lighting rate, under the Lighting and Watching Act, 1833, was in 1922–3 levied in 800 rural parishes—in many cases over a portion only of the parish, and in some cases over two parishes, or parts of two parishes, having a joint lighting scheme in operation. To such a rate, houses, buildings and property other than land or tithes pay in full; land and tithes pay one-third only of the rate. The precise meaning of "land" in this connection is open to doubt—it includes canals, towing paths, docks, railways, water mains, brickfields, and probably woodlands.

A special expenses rate is the "differential" rate most frequently found in a rural parish. It is levied under s. 230 of the Public Health Act, 1875, to meet the "special expenses" of the rural district council chargeable against an individual parish, or other contributory place. To it, tithe, agricultural land, woodlands, land covered by water or used as a canal or towing-path or as a railway, pay in the proportion of one-fourth only.

In future, whenever expenditure under the Lighting and Watching Act, or special expenses under the Public Health Act, have to be charged upon a parish, contributory place or other part of a rating area, the rating authority will, subject to one exception (see (*b*), *post*), raise them in that parish, etc., by means of a special rate, to which the same reliefs will apply as now apply to the special expenses rate.

The result will be a small change in the incidence of burden so far as lighting expenses are concerned; agricultural land (including market gardens and nursery grounds), tithes, woodlands, railways, canals, towing-paths and land covered with water will pay only one-fourth, *i.e.* they will get a slightly increased relief, and in the case of woodlands possibly an entirely new relief. On the other hand, water mains and brickfields will lose their relief. The alteration is not, however, a very serious matter; of the 800 lighting rates levied in 1922–3, 723 did not exceed sixpence, and 423 did not exceed threepence.

References in any document to either of the superseded rates are to be construed as references to the new special rates (s. 69 (2), *post*).

Note to Section 3.

(*b*) There is already a similar but not identical provision in the case of specila expenses rates (Public Health Act, 1875, s. 230). The new provision extends both to special expenses and to lighting expenditure, and the amounts fixed—£10 and a penny rate—are the same as in s. 230; but there is a change of language, the criterion being "the amount . . . for any half year falling to be raised." The words of s. 230, "the amount required by any precept *or precepts*," were so vague as to give rise in practice to a good deal of misunderstanding, and to attempts to avoid the levy of special expenses rates by issuing a series of precepts in one half-year.

The object of the provision is, of course, to save the expense (printing, collecting, etc.) of making a separate rate when the amount required is so small that no substantial unfairness to "relieved" properties is done by paying the amount out of the general rate to which their reliefs do not (except in the case of agricultural land and tithe) apply.

(2) Subject to the express provisions of this Act as to special rates, all the provisions of this Act relating to the general rate shall apply to a special rate, except that the owner of any tithe or tithe rentcharge and the occupier of any woodlands, or of any land covered with water or used as a canal or as a towing-path for a canal or as a railway constructed under the powers of any Act of Parliament for public conveyance, and, until the date of the first new valuation, the occupier of any agricultural land, shall be liable to pay in respect of one-fourth part only of the rateable value of the tithe, tithe rentcharge, woodlands or land.

"Express provisions as to special rates" are to be found in ss. 4 (3), 7 (2); apart from such, both general and special rates will be subject to the same code of procedure in regard to publication, amendment, recovery, remission, etc.

Certain properties which now pay only 25 per cent. of a special expenses rate will pay the same proportion only of a special rate. One of these properties, agricultural land, will pay 25 per cent. only of the general rate also; and, therefore, the relief to it can (after the new valuation list comes into force) be given more conveniently by a reduction of the assessment in the list; in the case of the other properties in question, as the relief is limited to special rates, the full assessment must, for the purposes of the general rate, appear in the list, and the relief in the case of a special rate in those parishes in which such rates are necessary will continue to be given, as now, in the collection of the rate.

As from the date of the first new valuation, agricultural buildings will enjoy the same relief, by reduction of assessment, as agricultural land (Sched II., Part II.).

For definitions of "agricultural land" and "woodlands," see s. 68 (1), *post*.

Operation and incidence of rate.

4.—(1) Every rate made by a rating authority on or after the appointed day shall be deemed to be made on the date on which it is approved by the authority, and any enactments requiring that rates must be allowed by justices shall cease to have effect.

A form of rate book will doubtless be prescribed under s. 58, *post*.

A general district rate is required by s. 210 of the Public Health Act, 1875, to be made under seal. A poor rate does not require any seal, and the present section uses only the vague term "approved."

Presumably, a resolution upon the minute book, so long as the rate approved is satisfactorily identified by it, will be sufficient; but probably, in order to simplify proof before Courts of Summary Jurisdiction, it will be found better in practice for the resolution of approval to direct the council's seal to be affixed at the end of the rate.

As to evidence of a rate, see Poor Rate Assessment and Collection Act, 1869, s. 18.

At present a poor rate is deemed to be "made" on the day when it is "allowed" (*i.e.* approved) by two justices, or if they sever in their allowance, then on the day of the last allowance (Poor Rate Assessment and Collection Act, 1869, s. 17).

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The allowance which is now required in the case of poor rates by s. 1 of the Poor Relief Act, 1601, but is not required in the case of either borough, general district or special expenses rates, is little more than a formality, for, if the rate put before the justices is good on the face of it, they are bound to allow it (*R.* v. *Godolphin* (1844), 13 L. J. M. C. 57; 8 J. P. 521). After 1st April, 1927, *no* rate will require allowance.

The subsection applies to *every* rate made by a rating authority on or after the 1st April, 1927. It will apply, therefore, as from that day not only to the new general and special rates made by rural authorities, but also to the poor rates (and other rates) made by urban authorities in the interval between 1st April, 1927, and the date when consolidation of their rates takes effect.

(2) Subject to the provisions of this section, every general rate shall be made in respect of a period commencing in the case of the first general rate made under this Part of this Act for any rural rating area on the appointed day, in the case of the first general rate so made for any other rating area on the date of the first new valuation, and in the case of any subsequent general rate immediately after the expiration of the last preceding period in respect of which a general rate was made, and terminating on such date, to be specified in the rate, as may be fixed by the rating authority, and, in the case of the last rate made in respect of any financial year, the date so fixed shall be the last day of that year.

This subsection applies to general rates under this Act, but not to poor rates or any other existing rate, nor to the new special rates—as to which see the next subsection.

The words "subject . . ." refer to sub-s. (6), which makes clear the power of an authority to levy a supplementary rate *at any time* in case of need.

A general rate is to be made in respect of a "period"; the first day of the period (after the first general rate) will always be the day next after the end of the preceding rate period; in the case of a "first" general rate, the subsection makes special provision.

The last rate made in any financial year must be made for a period which will end on March 31st: see definition of "financial year" in s. 68 (1).

(3) Every special rate shall be made in respect of such period, to be specified in the rate, as may be fixed by the rating authority, and a rating authority in fixing any such period shall have regard to the period during which the charges to be met by the rate accrue.

The provision made by sub-s. (2) for continuity in the case of general rates does not apply to special rates: in some half years, or even years, the necessity to levy a special rate may not arise.

(4) The following provisions shall have effect with respect to the assessing of persons to and their liability in respect of a rate—

(a) a person who is in occupation of the hereditament for part only of the period in respect of which the rate is made, shall, subject to the provisions of this subsection, be liable to be charged with such part only of the total amount of the rate

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as the number of days during which he is in occupation bears to the total number of days comprised in the said period;

(b) a person who is in occupation of the hereditament for any part of the said period may be assessed to the rate in accordance with the provisions of paragraph (a) of this subsection, notwithstanding that he ceased to be in occupation before the rate was made;

(c) a person who is in occupation of the hereditament at any time after the rate is made may be assessed to and shall in the first instance be liable to pay, if he was in occupation at the beginning of the period, the whole rate, or, if he came into occupation subsequently, a proportion of the rate calculated on the basis that he will remain in occupation until the end of the said period, but shall, if he goes out of occupation before the end of the said period, be entitled to recover from the rating authority any sum paid by him in excess of the amount properly chargeable against him in accordance with the provisions of paragraph (a) of this subsection, except in so far as he has previously recovered the sum from an incoming occupier.

The effect of this subsection—which applies to both general and special rates—will be to introduce a simpler and more equitable method of determining the proportion of a rate chargeable against a person who is only in occupation for a part of the period in respect of which the rate is made.

The calculation will be, divide the total amount of the rate by the number of days in the rate period, and multiply by the number of days in that period during which the person was in occupation.

At present a rate period only runs from the date on which the rate is made to the date mentioned in the rate as the end of the period. Assuming a rate to have been made to cover expenses up to March 31st, if the making of the next rate to meet expenses up to September 30th is delayed (as it often is) to the middle of May, the actual rate period is only 4½ months. A person who occupies a house during April, May, and June, and then leaves, is only in occupation 1½ months within the rate period, *i.e.* one-third of the rate period, and he only pays one-third of the total rate intended to cover six months' expenses. His successor who occupies during July, August, and September occupies for three months within the rate period, *i.e.* two-thirds of the period, and therefore pays two-thirds of the rate, twice as much as his predecessor who had the house for the same length of time (*Cheney* v. *Tallowin*, [1904] 2 K. B. 763; 68 J. P. 528).

The obvious injustice in such a case is corrected by the present subsection; in the case of a general rate the rate period would under sub-s. (2) date back to April 1st, and the two occupiers would each pay half the rate; in the case of a special rate the period would date back to the date specified for its commencement under sub-s. (3).

The change in the method of calculation will operate in rural areas as from 1st April, 1927, but in urban areas only as from the making of the first general rate, for sub-s. (2) does not apply to poor rates or district rates, the period of currency of which will still run only from the day of making.

It will be noted that under the subsection a person who occupies a hereditament from (say) April 1st to May 1st, but goes out before the rate is made on May 2nd, will no longer escape all liability.

(5) Where the name of any person liable to be rated is not known to the rating authority, it shall be sufficient to assess him to the rate by the description of the "occupier" of the premises (naming them) in respect of which the assessment is made, without further name or description.

This provision will be valuable in the case of proceedings for recovery, as it will prevent a defence being brought on grounds of technical defect.

(6) Notwithstanding anything in this section, the rating authority may at any time make a supplementary rate if they think it necessary so to do having regard to the requirements of their area.

This subsection explains the words "subject, etc.," at the opening of sub-s. (2).

Apart from the express permission given by this subsection a supplementary rate would be inconsistent with the requirements in sub-s. (2) that general rates shall be made in unbroken continuity. The difficulty is here removed, and in cases where by reason of unforeseen additional expenditure, or exceptional losses in collection, it becomes necessary to raise further monies, a rating authority may at any time levy a supplementary rate and thereby avoid the consequences which might result under s. 12 (3) from failure to make sufficient rates.

Amendment of rate.

5.—(1) The rating authority may at any time make such amendments in a rate (being either the current or the last preceding rate) as appear to them necessary in order to make the rate conform with the provisions of this Part of this Act and any other enactments relating thereto, and in particular may—

(a) correct any clerical or arithmetical error in the rate :

(b) correct any erroneous insertions or omissions or any misdescriptions :

(c) make such additions to or corrections in the rate as appear to the authority to be necessary by reason of

(i) any newly erected hereditament or any hereditament which was unoccupied at the time of the making of the rate coming into occupation ; or

(ii) any change in the occupation of any hereditament ; or

(iii) any property previously rated as a single hereditament becoming liable to be rated in parts :

Provided that not less than seven days before making under the foregoing provisions any amendment which is not necessitated by an alteration of the valuation list, and the effect of which is to alter the amount appearing in the rate as chargeable in respect of any hereditament, the rating authority shall send notice of the proposed amendment to the occupier of the hereditament, and if the owner is liable to pay the rates in respect of the hereditament also to the owner, and shall consider any objection thereto which may be made by him or them.

In the case of a poor rate there is at present no power to correct clerical or other errors ; such a rate can be altered after its allowance only (1) to enter the name of

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an incoming occupier (Poor Rate Assessment and Collection Acts, 1869, s. 16, and 1882, s. 3); or (2) to enter new property (Poor Law Amendment Act, 1868, s. 38); or (3) to make the rateable value conform to an alteration made in the Valuation List (Union Assessment Committee Amendment Act, 1864, s. 1).

In the case of a general district rate the authority can under s. 221 of the Public Health Act, 1875, insert the name of any person who ought to have been assessed or strike out the name of any person who ought not to have been assessed, raise or reduce the sum at which a person is assessed if they consider that he has been under-rated or over-rated, or make any other alteration which will make the rate conformable to the provisions of the Act.

This power of amendment is, however, subject to the provision "that any person who may feel himself aggrieved by any such amendment shall have the same right of appeal therefrom as he would have had if the matter of amendment had appeared on the rate originally made, and with respect to him an amended rate shall be considered to have been made at the time when he first received notice of the amendment, and an amended rate shall not be payable by any person the amount of whose rate is increased by the amendment, or whose name is thereby newly inserted, until seven days after such notice has been given to him."

In London, a Court of Summary Jurisdiction may make certain amendments in a rate under ss. 71, 72 of the Valuation (Metropolis) Act, 1869.

Alterations within (a) or (b) take effect retrospectively as from the date when the rate was made (sub-s. 2).

Alterations within (c) will presumably take effect as from the date of the event which called for the alteration (cf. s. 4 (4)).

It will be seen that if the alteration, not being merely consequential upon an alteration of the valuation list, increases the amount chargeable, notice must be given to the occupier, and in some cases to the owner also; as to service of notices, see s. 59, *post*. The section makes no provision for determining any dispute as to the propriety of the alteration. Under s. 37 (1), however, if the authority make any amendment in a rate other than one falling within (a) or (b) of this subsection, they must at once make a proposal for any necessary amendment of the valuation list, so that the list and rate may agree. If, therefore, the amendment affects values (*e.g.* the division of a hereditament previously occupied as a whole) the assessment committee will, in effect, settle any dispute by their decision; and if they disagree with the rating authority's values, the rate will again be altered with retrospective effect (s. 37 (10)).

If the amendment does not affect values (*e.g.* if it involves questions as to non-occupation or date of occupation) the ratepayer can apparently challenge it upon proceedings for recovery of the rate.

The new power of amendment will apply to all rates (general, special, poor, or district) made on or after 1st April, 1927 (see sub-s. (3)), but it only extends to the current rate or the last preceding rate.

(2) Every amendment made under paragraph (a) or paragraph (b) of the preceding subsection in a rate shall have effect as if it had been contained in the rate as originally made.

See as to this subsection the note under sub-s. (1).

(3) This section shall come into operation on the appointed day.

See as to this subsection the note under sub-s. (1).

Publication of rate.

6.—(1) Notice of every rate shall be given by the rating authority within seven days after the making thereof, and the rate shall not be valid unless notice thereof is duly given in manner for the time being required by law.

(2) Any such notice may, if the rating authority think fit, be given either by affixing the notice at any time within the said period of seven days on or near to the doors of churches and chapels in manner prescribed by section two of the Parish Notices Act, 1837, or by affixing the notice within the said period in some public or conspicuous place or situation in each parish affected, or by publishing the notice within the said period in one or more newspapers circulating in the area of the authority, and different methods of publication may be used as respects different parts of the area of the rating authority. Section 6. 7 Will. 4, & 1 Vict. c. 45.

(3) This section shall come into operation on the appointed day.

This section prescribes the mode in which all rates made after 1st April, 1927, are to be "published," *i.e.* in which public notice of the rate having been made is to be given.

Originally, under the Poor Rate Act, 1743, notice of a poor rate was required to be given orally "*in* the Church" on the next Sunday after its allowance; but now publication is effected by affixing the notice before morning or evening service on the Sunday in question, at or near the principal door of every church and chapel of the Church of England in which divine service is actually performed; Parish Notices Act, 1837, s. 2 (as construed by the Courts); if there be no such building in the parish, the notice must be affixed, within fourteen days after the making of the rate, in some public and conspicuous place or situation in the parish (Poor Rate Assessment and Collection Act, 1882, s. 4).

General district rates and special expenses rates are published "in the same manner as" poor rates (Public Health Act, 1875, s. 222); but it would seem that they are not invalidated—as a poor rate is—by the publication being made after the expiration of the prescribed time (*Lefeuvre* v. *Miller* (1857), 8 E. & B. 321; 21 J. P. 436).

Under this section a rating authority are given three alternatives:

(1) Publication on or near to doors of churches and chapels;

(2) Affixing the notice in some public *or* conspicuous place or situation in each parish affected; and

(3) By advertisement in one or more newspapers circulating in its area.

Further, they may employ different methods as respects different parts of their area.

In each case the period allowed is seven days.

With regard to the first alternative, however, it must be noted that the meaning of the words "in manner prescribed by section two of the Parish Notices Act, 1837," is rather obscure. As the notice may in future be affixed "*at any time* within the said period of seven days," the "prescribed manner" presumably refers only to the place or places for affixation and not to the day or hour. At the same time, if this mode of publication alone is to be relied on, it may be safer to adhere to the present practice in all respects.

If there is no church or chapel in the parish, obviously one of the other two modes of publication must be adopted.

The existing provisions in the Poor Rate Act, 1743, and in s. 4 of the Poor Rate Assessment and Collection Act, 1882, are repealed, but not s. 2 of the Parish Notices Act, 1837, which does not relate exclusively to notices of rates.

7.—(1) Information with respect to the following matters shall be included in the demand note on which the general rate is levied, that is to say— Demand notes for rates.

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(a) the situation of the hereditament in respect of which the demand note is issued and such description thereof reasonably necessary for purposes of identification as may be prescribed ;

(b) the rateable value, and, where it differs from the rateable value, also the net annual value ;

(c) the amount in the pound at which the rate is charged ;

(d) the period in respect of which the rate is made ;

(e) the amounts in the pound which are being levied for the purposes respectively of the rating authority and of each authority by which a precept has been issued to the rating authority ;

(f) the amount, if any, in the pound which is being levied as an additional item of the rate ;

(g) the amounts in the pound which are being levied for such of the principal services administered respectively by the rating authority and the authorities by which precepts have been issued to the rating authority as may be prescribed.

(2) The information specified in paragraphs (a), (b), (c), (d) and (e) of subsection (1) of this section shall be included in the demand note on which any special rate is levied.

Forms of demand notes for both general and special rates will doubtless be prescribed under s. 58, *post*.

The information specified in this section and, also, where s. 8 is put into operation, the further information required by s. 8 (3) must in any case be included, but other details may be added.

Subject to such local variations as have from time to time been authorised, the present form of demand note in the case of the poor rate is prescribed by General Orders of the Local Government Board made on the 14th June, 1875, and 13th April, 1897.

As to service of demand notes, see s. 59, *post*.

(a) "Situation" is required in the existing form of demand note, and also "description" of a limited character, *i.e.* whether the hereditament is agricultural land or not. This information was required for purposes of the Agricultural Rates Act, 1896 ; but would appear to be no longer required for these purposes when the relief to agricultural land ceases to be given in the collection of the rate.

(b) "Rateable" value only is now given, and not gross. Where the net annual value and rateable value are not identical (*e.g.* in cases within s. 22 (1) (c) and Sched. II., Part II.), both will be given.

(c) This, of course, is now given.

(d) The existing form states the date on which the rate was made and the last day of the period.

(e) The present form provides for giving particulars of the purposes for which the rate was made and the proportion of the rate in the pound levied for each purpose.

(f) This is required for the purposes of any separate charge which may be levied on part of a rating area in respect of expenses which are not common to the whole district, *i.e.* under s. 2 (5), (6).

(g) This requirement, which will apply only to such services as may be prescribed by the Minister of Health, will merely amplify the information already given under paragraph (c) which would otherwise be confined to a statement of the total poundages levied to meet the expenditure of the rating authority and precepting authorities respectively.

The information necessary in the case of demand notes for the special rate is confined to that stated in paragraphs (a), (b), (c), (d) and (e).

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The section, of course, does not apply to poor rates, district rates or other existing rates levied in an urban district until the date (1928 or 1929), when the rates are consolidated.

Discount on general rate.

8.—(1) The rating authority may, if they think fit, by resolution direct that an allowance by way of discount not exceeding two and one-half per centum shall be made on the amount due in respect of any general rate from every person who pays the net amount due before such date as the rating authority shall prescribe :

Provided that the said allowance—

(a) shall not be made where the person paying the rate is an owner who is entitled to any of the allowances for which provision is made by section eleven of this Act ; and

(b) shall be made at the same rate to all persons entitled thereto.

(2) The rating authority may at any time revoke or vary a resolution under this section.

(3) While any resolution under this section is in force, there shall be included in every demand note on which the general rate is levied a statement of the effect of the resolution.

The power to allow a discount to a ratepayer who pays his rates before a specified date has been given in some nineteen local Acts and Provisional Orders ; but it is believed that only five or six of the authorities in question have, up to the present, made use of the power, and there seems to be some division of opinion as to the advantages of it. The discounts permissible under the local Acts or Orders are usually either 2½ or 5 per cent. In some cases the discount may vary according to the rateable value of the hereditament ; in others, as in this section, it must be the same in all cases.

It will be noted that the discount cannot be allowed to an owner who is entitled to any allowance under s. 11, and that, subject to uniformity throughout any rating area the discount allowed may vary up to the maximum limit of 2½ per cent.

Provisions as to precepts.

9.—(1) As from the appointed day, any precept issued by the council of a county which under any enactment or order in force immediately before that day is required to be sent to a board of guardians and any precept which under any such enactment or order is required to be sent to overseers shall, instead of being so sent, be sent to the rating authority.

At present, under the County Rates Act, 1852, county councils apportion county expenses (according to the "county rate basis" in force) amongst the parishes liable to contribute towards the particular purpose, but issue their precepts to the guardians of the unions in which the various parishes are situate.

The guardians make an apportionment (according to the "reduced assessable value" of parishes) upon the parishes in the union in respect of their requirements for common poor law purposes ; and then issue a precept to the overseers of each parish for the amount required from it by the county council and by themselves.

Parish councils, parish meetings, and other bodies (such as joint burial committees) whose expenses fall on the rates of a parish, also issue precepts to the overseers.

Note to Section 9. In future, as all rates are to be levied by the rating authority, precepts are required to be sent to that authority direct.

(2) The provisions hereinafter in this subsection contained shall have effect in relation to any precepts issued by guardians in respect of any period beginning on or after the appointed day, and by councils of counties in respect of any period beginning on or after the first day of April, nineteen hundred and twenty-nine :—

(a) Expenditure chargeable on two or more parishes or other areas which would, if this Act had not passed, have been chargeable in proportion (*a*) to the yearly value of property therein shall not be apportioned between those parishes or areas :

(b) The precept shall require the rating authority of each rating area affected to levy—

(i) as part of the general rate, or as an additional item of the general rate ; or

(ii) during the period before the date on which the provisions of this Part of this Act relating to the making of a general rate come into operation, as part of the poor rate or as an additional item of the poor rate ;

a rate (*b*) of such an amount in the pound, being (subject (*c*) in the case of an urban rating area to such adjustment as is hereinafter provided) the same amount in the case of each rating area affected, as may be specified in the precept, and shall state the date or dates on or before which payments are required to be made on account of the rate levied in pursuance of the precept and the amount of each such payment :

(c) Subject to the provisions of this section, the amount due under a precept to the authority by which it was issued shall be the amount produced (*d*) by the rate of the amount in the pound specified therein, and the rating authority shall make payments in accordance with the requirements of the precept on account of the amount due thereunder :

Provided that, (*e*) for the purpose of securing that the basis on which the sums due under the precept are to be ascertained shall be the same for rural rating areas and urban rating areas, the amount due under a precept shall, in the case of an urban rating area, include a sum equal to that by which the produce of the rate would be increased if such of the reliefs given by Part II. of the Second Schedule to this Act as operate only in urban rating areas were not so given, and the precept shall require the rating authority to make provision accordingly for any such additional sum by increasing as may be necessary the amount in the pound of the rate which is required by the precept to be levied :

(d) For the purpose of enabling councils of counties and boards of guardians to issue their precepts in manner required by this subsection, every rating authority shall before the first day

of February in each year transmit to every county council and board of guardians having power to issue a precept to that rating authority an estimate of the amount, calculated in the prescribed (*f*) manner, which would be produced in the next financial year by a rate of a penny in the pound levied in the rating area or part thereof (*g*), as the case may be, if provision were not made by the said Part II. of the Second Schedule for any such relief as aforesaid which operates only in an urban rating area (*h*), and the aggregate amount of the payments required by the precept shall not exceed the sum which a rate of the amount in the pound therein specified would produce on the basis of the estimate for that year :

Provided that, where a rating authority fails to transmit an estimate to any precepting authority in accordance with the foregoing provisions, the precepting authority may for the purposes of this section make an estimate in lieu of the rating authority :

(e) The precept must be issued, or information as to the amount in the pound of the rate to be levied thereunder must be given, to each rating authority affected not less than twenty-one days before the beginning of the financial year or the financial half-year, as the case may be, in which the rate is to be levied, and, for the purpose of enabling councils of counties to comply with the provisions of this paragraph, the estimates to be submitted to such councils under section seventy-four of the Local Government Act, 1888, shall be submitted before, instead of at the beginning of, every financial year, and an estimate may be revised under subsection (3) of the said section before the expiration, instead of at the expiration, of the first six months of the financial year (*i*) : 51 & 52 Vict. c. 41.

(f) The amount due under a precept issued to a rating authority shall be ascertained in the prescribed manner (*k*), and, if that amount exceeds the aggregate amount of the payments required by the precept, the balance shall be paid by the rating authority to the authority issuing the precept, but if that amount is less than the aggregate amount of the payments required by the precept, the balance shall be set off against any amount required by the next precept issued to the rating authority :

(g) Where the amount due under a precept, or any part of that amount, is not paid on or before the date specified in the precept for payment, the authority by which the precept was issued may (*l*), if they think fit, require the rating authority to pay, in accordance with the following provisions, interest on that amount, or that part of the amount, and any interest so payable shall be paid by the rating authority to the authority by which the precept was issued in like manner as if it were due under the precept :

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For the purpose of the foregoing provision, interest shall be calculated at the rate of six per cent. per annum and shall commence to run from the date of payment specified in the precept, except that no interest shall be charged in respect of any day before the expiration of six weeks from the commencement of the financial year or financial half-year, as the case may be, in respect of which the precept was issued, or in respect of any day on which the aggregate amount of any payments made under the precept is equal to or exceeds the sum which bears to the aggregate amount of the instalments required by the precept the same proportion as the number of days which have elapsed since the commencement of the said financial year or half-year, as the case may be, bears to the total number of days contained in that year or half-year.

Sub-s. (2) sets out a new precepting system which is to apply to guardians as from the 1st April, 1927, and to county councils as from the 1st April, 1929, and which under sub-s. (3) may be applied in the future to other precepting authorities.

In respect of the financial years 1927–28 and 1928–29, county councils will issue their precepts to rating authorities in accordance with existing provisions as modified by Sched. VII., 10, of this Act; see notes thereto. Where common county charges are shared by all the parishes in an area, there will no longer be an apportionment between individual parishes; but the apportionment will be on the area as a whole, and the charge will in urban districts, until a general rate can be levied, fall upon the poor rate of the area, and in rural districts will fall upon the general rate.

The essential feature of the new system is that a precepting authority will no longer apportion the total sum required by them amongst the various parishes liable to contribute, and then call upon each to pay the amount apportioned upon it; but will call upon each rating authority concerned to levy in the parishes liable to contribute a rate of a specified poundage, and to pay over the proceeds of such rate.

The process may, perhaps, be best explained by taking a simple hypothetical case, a union consisting of an urban rating area (U) and a rural rating area (R). Before the beginning of the financial year, each rating authority will send to the guardians an estimate of the amount which should be produced in its area by a rate of one penny in the pound: in U, it may be, a penny rate will produce £100, in R it will produce £250. The guardians estimating that £3,150 will meet their requirements for the year (or half-year), will issue precepts to U and R requiring each to levy a rate of 9*d.* in the pound, and (ultimately) to pay over the proceeds thereof. They will call for payments on account on dates convenient to themselves, but the aggregate of such payments on account must not exceed the estimated proceeds of the rate, *i.e.* £900 from U and £2250 from R. When the accounts for the year are audited, it will be ascertained how much the rate did actually produce—say £950 in U, and only £2,100 in R. U will pay over the extra £50, while R will receive credit for the £150 over-paid.

There are, of course, points of detail which will be considered in the notes to the various paragraphs of the subsection, but the above outline explains the main features of the system. Under it, each ratepayer in the union should contribute at the same rate in the pound to common charges, instead of each parish having to find its apportioned quota, even though a large portion of its rateable value has become unproductive since the apportionment was made. Account keeping also should be considerably simplified.

Having regard to the existing lack of uniformity in valuation between different unions, to introduce in respect of county charges the new uniform poundage system of precepting before all unions have been revalued under the Act would obviously be unfair to ratepayers in a union where the valuation list had been revised in accordance with post-war values. In the case of union common charges no such

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consideration arises, for the standard of valuation throughout all the parishes should be the same. As regards guardians, therefore, the new system comes into operation in respect of the financial year beginning on 1st April, 1927.

(*a*) The new system cannot be applied to expenses which are chargeable upon parishes (as some hospital charges are) in proportion to population; but it applies to all common charges in a union, which at present are apportionable according to reduced assessable value. After the year ending 31st March, 1927, there is to be no apportionment.

(*b*) In February, 1927, the rating authority of each rating area affected will have sent to the guardians (see para. (d)) an estimate of the produce of a rate of one penny in the pound levied in its area, or in those parishes in it which are in the union in question.

(i) In the case of a rural rating area (where a "general" rate is to be levied as from 1st April, 1927) the direction will be to levy as part of the general rate, if all parishes in the area are in the union; if only some of its parishes are in the union it will be to levy as an additional item of the general rate in each of those parishes.

(ii) In an urban rating area, during 1927–8 (and in some cases 1928–9 also) the direction will be to levy as part of the poor rate, if all the parishes are in the union, or as an additional item (see Sched. VII., 9) of the poor rate in those parishes which are in it. Thereafter the direction will be to levy as part of the general rate, or as an additional item thereof (as the case may be).

The guardians will specify in the precept the poundage of the rate to be levied, and this will be the same throughout the union. They will also specify the payments to be made on account; but (see para. (d)) the aggregate of such payments must not exceed the amount estimated by the rating authority to be produced by the rate.

(*c*) This refers to the proviso to para. (c); see note (*e*), *infra*.

(*d*) Although the guardians can only call for interim payments up to the estimated produce of the rate, the amount to which they will eventually be entitled will be the amount ascertained to have been produced by the rate.

(*e*) This proviso requires careful consideration. At present the burden of union common charges is distributed according to reduced assessable value, *i.e.* total rateable value reduced by 75 per cent. of the value of agricultural land. During the year 1927–8, while the existing valuation lists are in force in all the rating areas within a union, the levying of an equal poundage rate upon the rateable values appearing in those lists (agricultural land being allowed a rebate of 75 per cent. in the collection) will not disturb the incidence of burden as between the areas.

After 1st April, 1929, when new valuation lists under the Act have come into force in all the rating areas, the incidence of burden as between urban and rural areas would be disturbed, for the total rateable value of a rural area will be its total net annual value reduced by 75 per cent. of the value of agricultural land and buildings (Sched. II., Part II.), whilst the total rateable value of an urban area will be its total net annual value reduced by 75 per cent. of the value of agricultural land and buildings, and further reduced by the reliefs given to railway lines, etc., which only operate in urban areas. If no correction was applied, the produce of a penny rate in an urban district would be reduced by a factor not operating in a rural district, with the result that the latter would bear a larger proportion of the union common charges.

It is accordingly provided that the amount due under the precept shall be not merely the actual produce of the rate, but that produce *plus* the extra amount which would have been produced if no relief were allowed to railway lines, etc.

For example, in the present valuation list, the figures for an urban area are as follows:—

		£
Agricultural land	net annual value	8,000
Railway lines and other properties paying 25 per cent. of district rate	,,	1,000
Other properties	,,	17,000

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A poor rate of a penny in the pound would produce 20,000*d.* Assuming values to remain constant and assuming the equated relief to railways, etc., in this area to be 50 per cent., the new valuation list under this Act may show :—

		£		£
Agricultural land and buildings	net annual value	10,000	rateable value	2,500
Railway lines, etc. ..	,,	1,000	,,	500
Other properties ..	,,	15,000	,,	15,000
				£18,000

A penny rate will only produce 18,000*d.*, and for the purposes of the proviso there must be added to the actual produce the extra 500*d.* which the rate would have produced if the reliefs given to railways, etc., had not been transferred from the rate to the valuation list ; in other words, if the area were a rural one.

The result will be that, if the guardians have called for a rate of ninepence in the pound, such a rate would produce 4,500*d.* less than will be due under the precept, and the urban authority will really have to levy a rate of 9¼*d.*

During the one year 1928–9, when some areas with new lists in force will be giving relief to agricultural buildings, whilst others with old lists in force will be collecting full rates on such buildings, there may (unless some correction is applied) be a temporary disturbance of the incidence of the precept burden. See hereon note to s. 19 (1), *post.*

(*f*) See sub-s. (4), *post.*

(*g*) *I.e.* when part only of the rating area is in the union.

(*h*) In a rural area the estimate will give the amount estimated to be actually produced by a penny rate ; in an urban area it will give the amount estimated to be produced *plus* the further amount that would be produced if relief were not given to the railway lines, etc. Contributions made by the Crown in lieu of rates will be included in calculating rate produce, see s. 64 (3), *post.*

(*i*) This provision will enable the rating authority to make its rate promptly after the beginning of the financial year or half-year.

If s. 74 of the Local Government Act, 1888, as it stands, were construed strictly, county councils could not consider their "budget" before 1st April, or revise their requirements before 1st October in any year; and so could not carry out the directions n this paragraph.

(*k*) See sub s. (4), *post.*

There is to be an adjustment as soon as it is known whether the *ascertained* produce of the rate exceeds or falls short of the aggregate of the amounts paid on account.

(*l*) The provision enabling but not requiring interest to be charged will help to secure prompt payment of the amounts required to be paid on account of a precept. At present, overseers who are dilatory in making payments are liable to be distrained upon ; but such a remedy by distress is scarcely appropriate in the case of a local authority. On the other hand, a rating authority cannot collect all its rates at once ; and, therefore, though an unreasonable precepting authority might call for unduly large payments on account early in the financial year, they are in effect compelled to distribute the required payments in a reasonable way, for no interest at all can be charged in respect of the first six weeks, nor can any be charged so long as the rating authority make periodical payments proportionate to the period which has elapsed ; for instance, if during the year they have to pay £1,460, no interest can be charged so long as they keep up payments equivalent to £4 for every day which has elapsed since 1st April.

(3) Any other authority by which precepts are issued, or any rating authority to which precepts are issued by any such first-mentioned

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authority, may make and submit to the Minister a scheme for applying to precepts issued by or to that authority the provisions of the last preceding subsection, subject to such modifications as may appear to be necessary having regard to the basis of apportionment or the incidence of charge existing at the commencement of this Act, and the Minister may, after giving any authorities concerned an opportunity of objecting, by order confirm the scheme either without modifications or subject to such modifications as he thinks fit :

Provided that, if an objection to any such scheme is made by any of the authorities concerned and is not withdrawn, the order shall be provisional only and shall not have effect unless and until confirmed by Parliament.

A scheme duly made, submitted and confirmed in accordance with the provisions of this subsection shall, subject to the provisions of the confirming order, have effect as if enacted in this Act.

Until a scheme is made for them under this section, precepting authorities other than boards of guardians and county councils will continue to apportion their expenses and issue precepts as they are doing at present. It may be doubted whether any schemes will be applied for until experience has been gained as to the working of the new system in the case of guardians.

The basis on which the various joint boards and other small precepting bodies distribute their charges are so various that it would be impossible to impose one general scheme on all of them without a danger of disturbing the present incidence of burden as between the different parishes or areas within their jurisdiction.

(4) Rules made for the purposes of this section—

(a) shall provide in what manner and to what extent the cost of the collection of a rate, including any allowances made under section eight or section eleven of this Act, and losses on collection are to be treated as deductions in estimating and ascertaining the amount produced by the rate ; and

(b) shall make provision with respect to any other matters for which it appears necessary to make provision in order to carry this section into effect.

These rules will be made under s. 58. It would not be fair, as between different areas receiving precepts from one board or council, that one area should reduce the produce of a penny rate in its area by extravagant methods of collection or by unjustifiably remitting rates, for this would throw an undue proportion of the common charges upon other economical or energetic areas. The terms of (a) suggest that it is intended that this point shall be met in some way, possibly by treating the produce of the rate as increased by the costs of, or losses on, collection in so far as those costs or losses exceed certain percentages of the amount attributable to the rate.

(5) Every authority shall on issuing a precept supply to the rating authority such information as is reasonably necessary for the preparation of demand notes in accordance with the foregoing provisions of this Part of this Act.

See as to the contents of demand notes s. 7, *ante*.

Section 10.

Unification of funds and accounts.

10.—(1) As from the date on which the provisions of this Part of this Act relating to the making of a general rate come into operation in a rating area, the rating authority shall keep, in substitution for such of their then existing rate funds as are being kept for the whole of the area, one rate fund, which shall be termed "the general rate fund," and all such first-mentioned rate funds which are being kept for the whole area on that date shall be amalgamated into the general rate fund, and references in any Act or document to the borough fund or district fund or any other rate fund which by virtue of this section has become amalgamated with the general rate fund shall, unless the context otherwise requires, be construed as references to the general rate fund.

One of the advantages of rate consolidation is that it renders unnecessary the keeping of more than one fund for the purposes of income and expenditure which are common to the whole rating area.

In a borough the resulting amalgamation of the borough fund and accounts and the district fund and accounts is a very substantial gain from the point of view of administration. It removes complication from the accounts, and obviates many troublesome questions connected with the allocation and apportionment of items of income and expenditure.

In many cases, too, the amalgamation of rate funds will lead to a substantial saving in income tax payments. At present a local authority is for income tax purposes treated as a separate entity in respect of each of its rate funds. Each of its services and undertakings is linked to some rate fund to which profits are carried, and out of which losses are met. Amongst several services or undertakings linked to the same "parent" fund pooling is permissible: subject to special provisions earmarking income to specific purposes,—a loss on one trading undertaking can be set off against profits on another, and set off is permissible as between the tax due on the *aggregate* amount of the assessments for tax and the *aggregate* amount of tax deducted when paying interest on mortgages or stock. As between two separate funds, however, no set off is permissible. The subject is too technical for full discussion here, but the following simple examples may be cited: A borough is liable to pay out of the borough fund £300 tax assessed in respect of its corporate estate; when paying interest on a sewerage loan on the district fund it deducts £250 in respect of income tax. At present (if there are no other factors involved) it must pay over to the revenue both the £300 and the £250. If the two funds are amalgamated, it will be entitled to retain the £250, as if the loan were a charge on the estate. Again, an annual trading loss may result from a tramway undertaking (borough fund) and an annual profit from an electricity undertaking (district fund). No tax, it is true, is payable in respect of the tramways, but at present the loss thereon cannot be brought into account to reduce the assessable profits on the electricity. If the funds are amalgamated this can (in the absence of special provisions) be done. In practice, of course, the position will be more complicated, for in most cases both parent funds will have undertakings, loans, and property.

It is, of course, only funds relating to the *whole* of the area which can be amalgamated.

See as to the preservation of existing securities, Sched. VII., 7: mortgages on the general district rate and district fund become, in effect, mortgages on the general rate and general rate fund.

See ss. 53, 54 as to expenses, accounts, and audit, and Sched. VII., 4, 5, as to existing balances and adjustments.

(2) After the appointed day and subject as hereinafter provided, a rating authority shall not, so far as regards income which belongs to or expenditure which is chargeable on the whole of the rating area, be

required to keep separate accounts for the parishes in their area, and the council of a county or a board of guardians shall not, so far as regards income which belongs to or expenditure which is chargeable on the whole of the county or union, or the whole of any rating area in the county, keep separate accounts for parishes, but shall keep separate accounts for rating areas :

Provided that nothing in this subsection shall affect the power of the Minister to make orders under section five of the District Auditors Act, 1879, requiring separate accounts to be kept as regards income or expenditure which relates to part only of an area, county or union. 42 & 43 Vict. c. 6.

Where income or expenditure is common to the whole of the area, it is obviously unnecessary for the rating authority to keep separate accounts for the separate parishes concerned. Such separate accounts will only be necessary in the case of expenditure which, under precept or otherwise, is chargeable only on part of the area, being raised either by an additional item of the general rate or by a special rate, or in the case of income received—*e.g.* under sub-s. (3)—which relates only to part of the area.

The discontinuance of the parish as a rating area, together with the new arrangements by which precepts will issue direct to rating authorities, will have the effect of removing parochial accounts from the ledgers of county councils and boards of guardians in the case of income and expenditure which is common to the whole area of the precepting authority, or to the whole of the parishes in any one of the rating areas concerned. In future, parochial (or part-parochial) accounts will only be necessary in cases where income or expenditure is separately applicable to part of a rating area.

In this connection provision is made saving the power given to the Minister of Health by the District Auditors Act, 1879, s. 5, to direct income or expenditure accounts to be kept for separate parts of a county or union.

(3) Where any authority other than a rating authority receives income applicable to the relief of rates in some part of their area (not being a part of the area to which expenditure properly incurred in connection therewith of an equal or greater amount is chargeable separately), that authority shall pay over the income so received (less the amount of any expenses properly incurred in connection therewith) to the rating authority of the area in which that part is situate to be credited to that part.

Where income applicable to the relief of rates in part of a rating area is received by the precepting authority, *e.g.* where guardians receive the dividends on parochial investments, the amount thereof (subject to deduction for necessary incidental expenses) is to be paid over to the appropriate rating authority, except in cases where the income relates to part of an area in respect of which expenditure of equal or greater amount incurred by the precepting authority is separately chargeable. In the latter case the income will be credited in the books of the precepting authority to the parish or part concerned, and will reduce *pro tanto* the amount required by precept. In other cases the rating authority will set off the amount handed over to them against some expenditure chargeable by them on the part of the area concerned ; should there be none, presumably the general rate on that part might be reduced accordingly.

11.—(1) The rating authority may by resolution (*a*) direct that, in the case of all hereditaments in their area (exclusive of hereditaments consisting of agricultural land) which belong to a class to be defined Rating of, and collection of rates by, owners.

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in the resolution by reference to rateable value and also, if rent is paid, by reference to the interval at which rent from time to time becomes payable or is collected, the owners thereof shall be rated instead of the occupiers :

Provided that the class shall not be so defined as to include any hereditament the rent of which becomes payable or is collected at quarterly or any longer intervals or the rateable value of which exceeds thirteen pounds, or, in the case of any area in which, at the passing of this Act, a higher limit (*b*) of value is in force for the purposes of section three of the Poor Rate Assessment and Collection Act, 1869, that higher limit.

Where a rating authority give any such direction as aforesaid—

(a) The owners of any hereditaments in the area of that authority to which the direction applies shall, in the case of any rate made while the resolution is in force, be rated accordingly, and the rating authority shall make to any owner who being so rated pays the amount due by him in respect of the rate before the expiration of one-half of the period in respect of which the rate is made (or, if the rate is payable by instalments one-half of the period in respect of which the instalment is payable) or such later date or dates as may be specified in the resolution an allowance equal to ten per cent. of the amount payable (*c*) ; and

(b) The rating authority, if they are the owners of any such hereditaments as aforesaid, shall in the case of any hereditament which is of a rateable value not exceeding that specified in the resolution and which is occupied by the owner, make to the owner (subject to the amount of the rate chargeable in respect of the hereditament being paid by the owner within the time fixed by the foregoing paragraph) an allowance corresponding to the amount, if any, passed on by the authority to the occupiers of hereditaments owned by them in respect of the allowance to which the authority are entitled under this subsection, and, unless the contrary is proved, an amount not less than five per cent. of the amount payable in respect of rates shall be deemed to have been so passed on by the authority (*d*).

As to the date when this section comes into operation, see sub-s. (10).

The provisions contained in this and the other subsections of s. 11 make considerable alteration in the law and practice hitherto in operation, both with regard to the class of property affected and the extent of an owner's liability, and in order to appreciate these alterations thoroughly it is necessary to give a brief *résumé* of the statutory provisions which will be superseded by the new procedure.

Hitherto, in the case of the poor rate, the rating of owners has been effected under s. 4 of the Poor Rate Assessment and Collection Act, 1869, which applies only to hereditaments within a specified rateable value and which contain a dwelling-house.

The rateable limit fixed by the Act varied according to locality—£20 in the Metropolis, £13 in Liverpool, £10 in Manchester or Birmingham, and £8 elsewhere ;

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but at present (except in the case of the Metropolis) these limits stand temporarily increased by 25 per cent. under the Increase of Rent, etc., Act, 1920, s. 16 (1). Also in the case of certain areas they have been varied by local Act or Provisional Order.

The abatement allowed was fixed at 15 per cent. with an additional allowance not exceeding 15 per cent. in cases where the owner agreed in writing to be rated whether the hereditaments were occupied or not.

Apart from compulsory rating, voluntary agreements could be entered into under s. 3 of the same Act whereby individual owners accepted responsibility for payment of the poor rate in respect of any hereditament within the foregoing limits of rateable value, whether the premises were occupied or not. The abatement allowed in these cases was limited to a maximum commission of 25 per cent.

In the case of the general district rate, owners could be rated under s. 211 (1a) of the Public Health Act, 1875, in respect of any hereditament not exceeding £10 rateable value or where the rents were collected at intervals shorter than quarterly.

The consideration in these cases was given by means of a reduced assessment varying between two-thirds and four-fifths of the net annual value, and where liability for payment extended to hereditaments whether occupied or not the assessment was reduced to one-half of the net annual value.

The foregoing enactments are repealed by the Eighth Schedule, but in accordance with sub-s. (10) of this section will continue in operation until the date on which the first new valuation list under this Act comes into effect.

(*a*) Sub-s. (1) in the text provides that pursuant to a resolution of the rating authority, the owners of certain specified classes of hereditament can be rated instead of the occupiers.

Apart from agricultural land, which is expressly excluded from the operation of the subsection, the property which can be defined in the resolution must satisfy both of the following conditions:—

(1) If rent is paid, such rent must become payable or must be collected at intervals shorter than quarterly.

(2) The rateable value must not exceed £13 or such higher limit as may at the passing of this Act be in force in any area for the purpose of the poor rate.

The authority may, of course, select lower limits, *e.g.* weekly property not exceeding £10; but, whatever class they fix, the resolution applies to *all* property within it: they cannot pick and choose between different owners or different hereditaments.

"If rent is paid." The fact that no rent is paid will not exclude the hereditament if its rateable value is within the limit fixed.

If an authority own houses within the limits fixed, they can rate themselves in respect thereof—see paragraph (b) of the subsection.

For the definition of "owner" applicable to this section, see sub-s. (11) and note thereto.

The principal part of the subsection does not apply to an occupying-owner—who cannot be rated "instead of" himself; but as to such an owner, see paragraph (b) of the subsection.

(*b*) Liverpool is the only place (outside London) where the limit under the general Acts of 1869 and 1920 (see *supra*) could exceed £13; but a higher limit may be in force elsewhere under a Local Act or Provisional Order.

(*c*) The consideration to be allowed to owners who are rated is fixed at 10 per cent. of the amount of rates payable and is dependent on settlement being effected during the first half of the rate period or instalment period, or such later dates as may be specified in the resolution. Presumably in the absence of payment within the prescribed period the whole of the allowance of 10 per cent. would be forfeited.

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A resolution to rescind the rating of owners can be passed at any time, but will only take effect at the expiration of a rate period (sub-s. (3)).

(*d*) The origin of this provision would appear from Hansard to be as follows: An authority who rate themselves in respect of houses owned by them receive (or credit the housing account with) the usual commission. It was said that in such cases it was a common practice to "pass on" part of the commission to the occupier, who thus got from the resolution to rate owners a benefit which an adjoining occupier who had bought his house did not get.

If the authority own, in the area, houses within the limits fixed by their resolution, then the occupying-owner of any house within the limits is (if he pays the rates before the date prescribed) *primâ facie* entitled to discount of 5 per cent. It is open to the authority to prove—presumably in proceedings for recovery of the rate—that they in fact "pass on" nothing (or a smaller percentage) to their own tenants: the ratepayer may prove that they pass on more.

(2) The owner of any hereditaments to which this subsection applies, that is to say, hereditaments the rent of which becomes payable or is collected at intervals shorter than quarterly, may, by agreement in writing with the rating authority, undertake in respect of any such hereditament either—

(a) that he will pay the rates chargeable in respect thereof, whether it is occupied or not; or

(b) that he will, so long as the hereditament is occupied, pay the rates chargeable in respect thereof; or

(c) that he will on behalf of the authority collect the rates due from the occupier thereof,

and the authority may agree, where the owner so undertakes and pays over to the authority on or before the date or dates specified in the agreement the amounts payable by him thereunder, to make to him an allowance not exceeding in the case of an undertaking under paragraph (a) fifteen per cent., in the case of an undertaking under paragraph (b) seven and one-half per cent., and in the case of an undertaking under paragraph (c) five per cent.

An allowance made under this subsection in respect of any hereditament to an owner who is rated under the preceding subsection shall be in substitution for any allowance to which he might otherwise have been entitled in respect of that hereditament under the preceding subsection.

Under this subsection voluntary agreements can be entered into between the rating authority and individual owners in respect of *any* hereditaments the rents of which become payable or are collected at intervals shorter than quarterly. There is no restriction imposed as to rateable value and no exception is made in the case of agricultural land; and the agreement may be limited to one hereditament though the owner may own several to which the subsection applies.

An authority cannot agree with themselves, and this subsection will not apply to houses owned by them.

These agreements fall naturally into three classes according to the following degrees of responsibility undertaken by the owner:—

(a) To pay the rates whether the hereditament is occupied or not;
(b) To pay the rates only so long as the hereditament is occupied;
(c) To act merely as the collecting agent for the rating authority.

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The allowances given are not of fixed amount but are limited to the following maxima rates:

(a) 15 per cent. of the amount payable;
(b) $7\frac{1}{2}$ „ „ „ „
(c) 5 „ „ „ „

and are dependent on payment being made within a period prescribed in the agreement.

As to calculation of the amount due under an agreement of class (c) if the owner fails to collect the whole, see sub-s. (5).

A voluntary agreement under (a) may be made in respect of a hereditament falling within the terms of a resolution passed in pursuance of sub-s. (1), and in such cases there would result a duplication of allowance. This is prevented by the provision that any allowance given under a voluntary agreement shall be *in lieu* of the allowance of 10 per cent. given under sub-s. (1).

(3) An agreement entered into under this section shall continue in force until determined by notice given either by the rating authority to the owner or by the owner to the rating authority and, in the event of a change in the ownership of any hereditament while the agreement is in force, shall continue to be binding on the new owner as if it had been made with him (*a*).

A notice for the purposes of this subsection, or a resolution of the rating authority rescinding a previous resolution under subsection (1) of this section, shall take effect only on the expiration of a period in respect of which a rate is made, and in the case of a notice must be given before the commencement of the period on the expiration of which it is to take effect (*b*).

(*a*) If the effect of this provision is to make a purchaser responsible for amounts due from his vendor, it will prove of considerable value to rating authorities as, notwithstanding changes of ownership, outstanding rates will be recoverable under the agreement, and recourse to occupiers which has hitherto been necessary, in many cases at late stages of a rate period and with little hope of success, will now be obviated. It may be doubted, however, whether the provision means anything more than that a new agreement need not be negotiated with a new owner, the old one being treated as if it had been made by him at the earliest date when he was in a position to do so—*i.e.* when he became the owner; and in this case arrears accrued due before that date will not be recoverable from him (see sub-s. (5), *post*).

(*b*) The interval of a full rate period must elapse before notice to determine a voluntary agreement can take effect. This provision will successfully prevent any attempt to avoid, during the currency of a rate, the obligations of an agreement which may have become unprofitable.

(4) Where in pursuance of this section the owner is rated or has undertaken to pay or collect the rates charged in respect of any hereditament, the amount due from him in respect of the rates shall be recoverable by the rating authority from him or, where the rates are collected by an agent of his, either from him or from that agent, in the same manner and subject to the same conditions in and subject to which rates are recoverable from occupiers of rated hereditaments.

This provision will do much to facilitate recovery of outstanding rates where the owner is rated or has entered into an agreement. For the purposes of

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ss. 3, 4 of the Poor Rate Assessment and Collection Act, 1869, "owner" includes a rent-collector; but so long as the actual owner is the person who is rated, or who enters into the agreement, proceedings can only be taken against him or the occupier (*Pigg* v. *Tow Law Overseers* (1924), 22 L. G. R. 17). Now an additional party, the rent-collecting agent, becomes liable for payment, and in certain cases it will doubtless be found expedient to effect recovery from him.

Apart from the issue of a warrant of commitment (see p. 8, *ante*) the procedure for recovery of a poor rate is applied to the new consolidated general rate by s. 2 (3) (see p. 7, *ante*), and also to the special rate by s. 3 (2) (see p. 12, *ante*). Summary proceedings will therefore apply in the case of an owner or agent who makes default under this subsection.

As to collection of rates in such cases from the occupier (and his right to deduct sums paid from his rent), see the existing provisions applied by sub-s. (7), *post*.

(5) In the case of an undertaking by an owner to collect rates on behalf of the rating authority, the amount due from the owner shall be taken to be an amount which bears to the total amount of the rates due the same proportion as the aggregate amount actually collected by him in respect of rent and rates bears to the aggregate amount due in respect thereof.

Unless the undertaking by the owner to collect rates expressly so provides, the expression "rates due" shall not, for the purposes of the provisions of this section relating to an undertaking by an owner to collect rates, include rates accruing due before the date on which the undertaking comes into operation, nor for the purposes of this subsection shall account be taken of rent which accrued due before that date.

An equitable working arrangement is herein provided for ascertaining the exact liability of an owner who has entered into an agreement of the class (c) (see p. 30, *ante*) to collect rates on behalf of the rating authority.

In cases where the full amount of rent and rates due in respect of any period has not been recovered by the owner, the actual collection is to be apportioned between rent and rates on the basis of the full amounts respectively due for each of these services. Thus if the aggregate amount due for a half-yearly rate period in respect of any hereditament is £24, viz. £16 rent and £8 rates, and the owner's accounts show a total collection of £21 only, the amounts to be credited to the services will abate proportionately as follows:

Rent	£21 × $\frac{16}{24}$ = £14
Rates	£21 × $\frac{8}{24}$ = £7

Of the £3 arrears, £2 will represent rent and £1 rates. In the next period, if rent and rates remain constant, £27 will be due, viz. £18 rent and £9 rates; and any amount paid will be divided in these proportions; if, however, rates have fallen to £7, the amount due will be £26—rent £18 and rates £8, and the proportions will be varied accordingly.

The "rates due" from an owner under this class of agreement will not normally include any arrears brought forward from a rate period antecedent to the date when the agreement takes effect; unless the agreement expressly so provides, neither arrears of rates nor arrears of rent accrued due at the date when it comes into operation will be brought into account.

In the case of agreements of classes (a) or (b), no similar provision is needed, for the owner is, of course, responsible for the full amount due having regard to the terms of the agreement and (in (b)) the period of occupation.

(6) Every owner who is rated under this section instead of the occupier, or who enters into an agreement with a rating authority under this section, shall from time to time on demand deliver to the rating authority a list of the occupiers of the hereditaments in respect of which he is so rated or has so agreed, and such particulars with respect to the periods for which any of those hereditaments have been unoccupied, and with respect to the amounts which he has failed to collect from the occupiers, as the authority may require for the purpose of enabling them to determine what amount is properly due from the owner under this section, and if any such owner refuses or neglects to comply with the provisions of this subsection, or knowingly delivers to the rating authority particulars which are untrue in any material respect, he shall, in respect of each offence, be liable on summary conviction to a fine not exceeding five pounds, and, in the case of refusal or neglect to deliver particulars, to a further penalty not exceeding one pound for each day during which the offence continues after conviction therefor.

This provision (which replaces and amplifies the Poor Rate Assessment and Collection Act, 1869, s. 9) is necessary in order that the rating authority may be in a position to ascertain the proper proportion of rates for which an owner who is rated or who has entered into a voluntary agreement is liable to account.

The information which the authority are empowered to require is as follows:

1. List of occupiers of the hereditaments in respect of which the owner is rated or has entered into an agreement.
2. Particulars of the periods during which any of the hereditaments have been unoccupied.
3. Such details of the rent collection as may be necessary for the purpose of arriving at the amount of rates payable in cases where the total rent collection requires apportionment (see sub-s. (5), p. 32, *supra*).

Refusal or neglect to supply this information or the delivery of any particulars known to be untrue in any material respect is punishable on summary conviction by a maximum fine of five pounds, and, in the case of refusal or neglect, to a further continuing penalty of one pound per day.

(7) Sections seven, eight, twelve, and nineteen of the Poor Rate Assessment and Collection Act, 1869 (which relate respectively to the constructive payment of rates, the power of occupiers to deduct from rent the amount of rates unpaid by owners, the recovery of rates unpaid by owners and the insertion of the names of occupiers in the rates), shall have effect for the purposes of this section as if they were therein re-enacted and in terms made applicable to the provisions thereof.

In connection with the liability of owners to pay rates, either under a resolution of the rating authority or in pursuance of a voluntary agreement, this subsection explicitly retains the following important provisions of the Poor Rate Assessment and Collection Act, 1869:

Section 7.—Whereby every payment of a rate by an occupier by means of deduction from his rent and every payment of a rate by an owner whether he is rated or has entered into an agreement to pay rates, is deemed for certain purposes to be a payment by the occupier.

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Section 8.—Whereby occupiers have the right to deduct from rent due or accruing due the rates which have been paid by them in consequence of an owner's default.

Section 12.—Whereby the rating authority possesses a concurrent right of recovery against the occupier in cases where rates remain unpaid by the owner.

Section 19.—Whereby the rating authority are required to enter the occupier's name on the rate book, whether rates are payable by the owner or otherwise.

(8) Every owner who is rated under this section instead of the occupier, or who enters into an agreement with the rating authority under this section, in respect of any hereditaments shall, without prejudice to the rights of the occupier of any of those hereditaments, be treated in relation to any right of appeal to quarter sessions against a rate and for the purpose of the provisions of Part II. of this Act relating to objections, appeals and proposals as standing in the same position as the occupier.

This subsection replaces the Poor Rate Assessment and Collection Act, 1869, s. 13. It does not say that for the purposes mentioned the owner is to be deemed to be the occupier; the occupier's rights are left untouched, while similar rights are given to the owner.

(9) Any owner who under subsection (1) of this section pays any rate which, as between the owner and the occupier, the occupier is liable to pay, shall be entitled to be reimbursed by the occupier the amount so paid.

The obligation thrown upon an owner is not to absolve an occupier from liability for payment of a rate which may exist under a contract entered into with his landlord, and where in such circumstances the owner has paid the rates he is entitled to "reimbursement." The occupier, and not the owner, will get the benefit of the 10 per cent. allowance.

It appears to be doubtful whether this provision will be held to impliedly repeal the provisions of the Poor Rate Assessment and Collection Act, 1869, s. 1, as to property let for a term not exceeding three months. The classes of property dealt with in s. 1 and in this section are at any rate not identical.

(10) The provisions of this section shall come into operation (*a*) in any rating area on the date of the first new valuation and shall have effect in substitution for the provisions contained in sections three and four of the Poor Rate Assessment and Collection Act, 1869, and paragraph (a) of subsection (1) of section two hundred and eleven of the Public Health Act, 1875, and, unless (*b*) the rating authority concerned otherwise resolve, for any provisions contained in any local Act with respect to the rating of owners instead of occupiers, and as from the said date all resolutions, agreements, and notices then in force under any such provisions as aforesaid shall, subject as aforesaid, cease to have effect.

(*a*) The operation of the whole of the provisions contained in s. 11 is thus postponed until the date on which the first new valuation list under this Act comes into effect, *i.e.* either the 1st April, 1928, or the 1st April, 1929, in any rating area. On that

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date all resolutions, agreements, and notices pursuant to ss. 3 and 4 of the Poor Rate Assessment and Collection Act, 1869, and to para. (a) of sub-s. (1) of s. 211 of the Public Health Act, 1875, will cease to have any effect.

Until that date existing resolutions, etc., are clearly intended to remain in force; in an urban rating area they will continue to apply to the poor rate and general district rate, as the case may be; in a rural rating area they will apply to the general rate in lieu of the poor rate (s. 69 (2), *post*).

(*b*) The general effect of this is clear—an authority may elect to keep their local Act, or Provisional Order, provisions in force; but two points arise: (i) Are the words "the rating of owners . . . " to be construed as including "agreements with owners"? If not, local Act provisions as to agreements will apparently remain in force (concurrently with the new provisions) irrespective of any resolution. (ii) Local Acts, instead of enacting a complete code as to the rating of owners, often provide that "the following provisions shall have effect in the application of" the Act of 1869 "within the borough and parish, . . ." Presumably the provisions of the Act of 1869, as varied for the locality, are thus written into the local Act so as to become "contained in" it.

(11) For the purposes of this section the expression "owner," in relation to a hereditament means the person who is, or if the hereditament were occupied would be, entitled to receive the rent payable in respect thereof, or where the hereditament is occupied free of rent the person by whose permission it is so occupied.

Other definitions of "owner" for the general purposes of the Act, and in connection with rates upon tithe, will be found in s. 68 (1) and (2) respectively. The effect of this definition (which replaces that in the Poor Rate Assessment and Collection Act, 1869, s. 20) appears to be to restrict the term "owner" to the person dealing *directly* with the actual occupier (whether the latter's occupation is rateable occupation or not): for instance, A. lets a mansion and cottages to B., who allows his gardener and a pensioner to occupy the cottages free of rent; A. receives the only rent paid for the cottages, but he cannot be rated under this section: B. can be, although he receives no rent.

Power and duty to make sufficient rates, &c.

12.—(1) Every local authority shall make such rates or issue such precepts as will be sufficient to provide for such part of the total estimated expenditure to be incurred by the authority during the period in respect of which the rate is made or precept is issued as is to be met out of moneys raised by rates, including in that expenditure any sums payable to any other authority under precepts issued by that authority, together with such additional amount as is in the opinion of the authority required to cover expenditure previously incurred (whether within six months (*a*) before the making of the rate or issue of the precept, as the case may be, or not), or to meet contingencies, or to defray any expenditure which may fall to be defrayed before the date on which the moneys to be received in respect of the next subsequent rate or precept will become available.

See definition of "local authority" in s. 68 (1), *post*.

This section contains some important amendments of the law with regard to the finance of local authorities. It imposes a direct statutory obligation to make, issue, and levy "sufficient" rates and precepts to meet the expenses of the financial period, and repeals a number of provisions against "retrospective rating" which at the time of their enactment were intended to ensure that the ratepayers of each generation should bear their own burdens only. Presumably the new obligation is regarded as sufficient to attain the same object and to check any possible tendency on the part of a retiring council to leave undischarged liabilities for their successors

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to meet. The section also relaxes, though only to a limited extent, the rule that a local authority shall not borrow money without departmental sanction, which has long been recognised as another protection to ratepayers of the future. Finally, it strengthens the hands of auditors in their dealings with those authorities whose accounts are subject to district audit.

(*a*) At present, guardians—but no other local authority—are forbidden by statute to pay "stale" debts. The Poor Law (Payment of Debts) Act, 1859, s. 1, provides that debts, claims, and demands lawfully incurred by or becoming due from guardians are to be paid within the half-year in which the same have been incurred or become due, or within three months after the expiration of such half-year, but not afterwards; but the Minister of Health may extend the time for a period not exceeding twelve months after the date of the debt, claim, or demand.

In the case of most other authorities there is in force either a statutory provision or a common law rule against retrospective rates or precepts.

Section 210 of the Public Health Act, 1875, provides that a general district rate may be levied either prospectively in order to raise money for the payment of future charges and expenses, or retrospectively in order to raise money for the payment of charges and expenses incurred at any time within six months before the making of the rate. There are several reported cases as to the grant of a *mandamus* (to levy a rate in order to satisfy a debt) in cases to which this section (or the similar section in the Public Health Act, 1848) applied, and the result of them appears from the following passages from the judgment of Kennedy, L.J., in *Croydon Corporation* v. *Croydon R. D. C.*, [1908] 2 Ch. 321, 336:

"All that can safely be deduced from the cases is that, on the one hand, if no proceedings of any kind to enforce the claim for debt have been taken within six months after the debt has become ascertained and due, there must, even if a judgment be obtained, be some very special circumstances to justify the court in granting a *mandamus* (see the decision in *Burland* v. *Kingston-upon-Hull Local Board*, 3 B. & S. 271); and, on the other hand, even although no action has been taken for six months after the accrual of the right of action, yet if within six months after the judgment (see *Worthington* v. *Hulton*, L. R. 1 Q. B. 63), or even if the interval between judgment and the application for the *mandamus* exceeded six months, owing to an agreement between the parties (*Reg.* v. *Rotherham Local Board*, 8 E. & B. 906), the court might grant the *mandamus* to a plaintiff who was able to offer a reasonable explanation of his delay in taking and prosecuting legal proceedings. The decisions are not easily reconciled, and from the language of Mellor, J., who delivered the judgment of the court in *Worthington* v. *Hulton*, *supra*, it is plain that he considered the opinion of Wightman, J., as expressed in *Burland* v. *Kingston-upon-Hull Local Board*, *supra*, as irreconcilable with the judgment he was then pronouncing I may, I hope, say, with all respect due to the courts which decided *Reg.* v. *Rotherham Local Board*, *supra*, and *Worthington* v. *Hulton*, *supra*, that unless, as was expressly held in the former case, a judgment in an action of debt recovered against a local board constitutes a "charge" within the meaning of the Public Health Act, 1848, s. 89, and s. 210 of the Public Health Act, 1875, I do not find it quite easy to harmonise those decisions, according to any definite principle, with the statutory provisions."

Generally speaking, at common law a poor rate may only be levied to meet expenses incurred within the rating year (*Croydon Corporation* v. *Croydon R. D. C.*, [1908] 2 Ch. 321). This rule does not apply if the amount of the debt could not be ascertained during the period in which it ought to have been paid, or to debts lawfully contracted by overseers' immediate predecessors in office, or to bills of costs of the overseers' solicitors in proceedings in a court of law if paid within a year after the end of the proceedings or when the circumstances of a debt brought it within certain provisions as to precepts of guardians.

Section 144 (3) of the Municipal Corporations Act, 1882, provides that a borough rate may be made retrospectively, in order to raise money for the payment of charges and expenses incurred, or which have come in course of payment, at any time within six months before the making of the rate.

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Section 230 of the Public Health Act, 1875, provides that "a separate rate" under that section (*i.e.* for special expenses) shall, as respects the powers of the overseers in relation to making, assessing, and levying such rate, and as respects the appeal against such rate, and all other incidents thereof except the purposes to which it is applicable, the partial exemption of certain classes of property, and allowance by justices, be subject to the same provisions as apply to a poor rate. The result of the authorities appears to be that this section does not put the levy of such a rate on the same footing as the levy of a poor rate pure and simple, which (as above stated) is illegal if made retrospectively, and that the grant of a *mandamus* to enforce the levying of such a rate was a matter of discretion to be exercised according to the merits of the particular case (see *R.* v. *Leigh R. D. C.*, [1898] 1 Q. B. 836; *Croydon Corporation* v. *Croydon Rural District Council*, [1908] 2 Ch. 321, at p. 337).

By s. 68 (9) of the Local Government Act, 1888, county contributions may be made retrospective in order to raise money for the payments of costs incurred, or having become payable at any time within six months before the demand of the contributions.

As regards guardians, s. 6 of the Poor Law (Payment of Debts) Act, 1859, authorises the making of contribution orders (and poor rates to meet such orders) providing for the payment of debts, claims, and demands, the payment whereof is authorised by the Act, and also authorises the inclusion in contribution orders of balances due from parishes at the time when the half-yearly accounts were made up. It was decided in *Caistor Union* v. *North Kelsey Overseers*, 59 L. J. M. C. 102; 62 L. T. 731, that a contribution order in which was included a sum due from a parish three years previously was valid under this enactment.

There is no express provision authorising the precepts of a rural district council for general expenses to be made retrospectively for any specified period.

If a ratepayer discovers, from the local authority's estimates or otherwise, and can prove, that a rate is made in contravention of any of the prohibitions above mentioned against retrospective rating, he is in a position to get the rate quashed on appeal (*Smith* v. *Southampton Corporation*, [1902] 2 K. B. 244); but if the rate is once collected, there is, except in the case of guardians, nothing to prevent the payment of stale debts out of the proceeds. The rule against retrospective rating is, therefore, but slight protection to a ratepayer, whilst the quashing of a rate would throw the authority's finances into confusion, and probably not improve his position.

The various statutory provisions mentioned in this note, except those of the Poor Law (Payments of Debts) Act, 1859, are included in the schedule of repealed enactments (s. 69, Sched. VIII., *post*); and whilst it is made the statutory duty of an authority to provide for the liabilities of the current financial period (including a reasonable working balance), it is also made their duty to provide for outstanding liabilities of their predecessors.

Whether the Poor Law (Payment of Debts) Act, 1859, is impliedly repealed is not clear. Probably it is.

(2) The treasurer of a local authority may at any time advance to the authority any sum which the authority may temporarily require and which—

(a) they are at that time authorised to raise by loan; or

(b) they require for the purpose of defraying expenses pending the receipt of rates and revenues receivable by them in respect of the period of account in which those expenses are chargeable;

and the authority may pay interest at a reasonable rate on any advance so made.

Apart from the provisions of this subsection, the law as to overdrafts on a treasurer is as follows: Such an overdraft is a loan (*Cunliffe Brooks & Co.* v. *Black-*

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burn and District Benefit Building Society, 9 A. C. 857; *R.* v. *Reed*, 5 Q. B. D. 483; *Smith* v. *Southampton Corporation*, [1902] 2 K. B. 244; *Att.-Gen.* v. *Tottenham U. D. C.*, 73 J. P. 437; *Att.-Gen.* v. *West Ham Corporation*, [1910] 2 Ch. 560; *Att.-Gen.* v. *De Winton*, [1906] 2 Ch. 106); and, therefore, it is necessary for a treasurer to ascertain whether a local authority which asks for an overdraft is empowered to borrow money. If there is no borrowing power, or, when such is necessary, no sanction of a Government Department, or if any borrowing power has been fully exercised, an overdraft is illegal and no debt is thereby created (*Cunliffe Brooks & Co.* v. *Blackburn, etc., Building Society, supra*), and the only remedy of the treasurer is that he is entitled to be subrogated to the rights of those creditors whose debts have been paid out of the proceeds of the loan. Not only is a treasurer not allowed to permit an overdraft unless there is a borrowing power (and also, when such is necessary, a sanction of a Government Department); but it would seem that he is also bound to conform to the statutory provisions conferring the borrowing power. Almost invariably the power is to borrow on the security of some specified fund or rate; and, therefore, it would seem that it is not (subject to one exception to be presently referred to) sufficient for the treasurer to allow an overdraft on the mere deposit of the sanction, but it is necessary for him to see that the loan is duly charged upon the rates, or other security, mentioned in the borrowing power by a properly executed mortgage (*R.* v. *Locke*, [1910] 2 K. B. 201). In the Court of Appeal where this decision of the Divisional Court was reversed upon another point, Kennedy, L.J., expressed the view that the execution of a mortgage is not required; but the other judges did not express dissent from the decision in the Divisional Court.

The exception above referred to is a borrowing for a temporary purpose. In the judgment of the Divisional Court in *Smith* v. *Southampton Corporation, supra*, it was said that there would be nothing wrong in raising temporary loans within the limits of borrowing powers in respect of matters which required to be paid quickly, the local authority intending at some future date to raise one large loan by an issue of stock; and this was also the view of the court which decided *R.* v. *Locke, supra.*

Where a local authority has obtained from its treasurer a loan which is *ultra vires*, it cannot repay the same out of the funds under its control, nor can it pay interest thereon.

Prior to 1921, in the absence of some local Act containing special provisions to the contrary, sanctions of Government Departments for the borrowing of money were only given for permanent works; but in that year it was enacted (Local Authorities (Financial Provisions) Act, 1921) that a local authority might, for the purposes of providing temporarily for any current expenses (including sums due under precepts), with the consent of the Minister of Health, borrow by way of temporary loan or overdraft from any bank, or otherwise, such sums as might be sanctioned (s. 3 (1)). Amounts thus borrowed are charged on the funds, properties, rates, and revenues of the local authority *pari passu* with all other mortgages or securities affecting the same (s. 3 (2)), and (together with interest thereon) are to be paid out of the revenue received in respect of the financial year in which the expenses were incurred, provided that as respects money borrowed before 1st April, 1926, the Minister of Health may extend the term of repayment for a period not exceeding ten years (s. 3 (3)) as amended by the Local Authorities (Emergency Provisions) Acts, 1923 and 1924).

It frequently happens that a local authority require to borrow money temporarily either because the collection of rates is proceeding more slowly than was anticipated, or because the revenues of their trading undertakings for the financial period do not come to hand in time to meet the working expenses relating to that period. In such cases if there is merely a temporary cash shortage as opposed to an actual revenue deficiency, a temporary borrowing is not theoretically unsound finance, and the repeated applications for sanction entail considerable trouble. Paragraph (b) of the subsection renders a sanction unnecessary in such cases, whilst paragraph (a) recognises the correctness of the view that where an authority have power to raise a loan, they may borrow the money temporarily from their treasurer pending an issue of stock or the making of other arrangements for a formal loan on mortgage of the rates.

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It may well be, however, that somewhat difficult points will arise under the subsection. There may, for instance, be what is fairly believed at the time to be merely a temporary shortage, but which may eventually prove to be a revenue deficiency—arising very possibly out of circumstances beyond the authority's control, *e.g.* abnormal losses in collection owing to a serious increase of unemployment. Again, a revenue deficiency may result from some *bonâ fide* mistake or miscalculation in the rate estimates. In the first instance cited there may be a question whether the treasurer is entitled to the protection of the subsection; in all the instances, in view of the duty imposed by sub-s. (1), and the power conferred by s. 4 (6), *ante*, it may be a question whether the authority's failure to levy the necessary supplemental rate is "wilful" within the meaning of sub-s. (3). The answer to the latter question must probably depend upon the date when the true facts first became known, and whether at that date the levying of a supplementary rate would have been reasonable.

(3) Any loss represented by any such charge for interest or any loss of interest, shall, if it arises from failure through wilful neglect or wilful default to make or collect such rates or to issue such precepts as are necessary to cover the expenditure of the authority for any financial year (including any expenditure incurred in any previous year and not covered by rates previously levied), be deemed to be a loss within the meaning of section thirty-two of the Poor Law (Amendment) Act, 1844, and subsection (7) of section two hundred and forty-seven of the Public Health Act, 1875. 7 & 8 Vict. c. 101. 38 & 39 Vict. c. 55.

Section 32 of the Poor Law Amendment Act, 1844, directs district auditors when auditing accounts to which that section applies to charge the amount of any deficiency or loss incurred by the negligence or misconduct of any person accounting, or of any sum for which any such person is accountable, but not brought by him into account, against such person.

Section 247 (7) of the Public Health Act, 1875, provides that any auditor acting in pursuance of that section shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payments, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been, but is not brought into account by that person.

In the case of an authority whose accounts are subject to district audit, sub-s. (3) will apparently operate to secure compliance with the directions contained in sub-s. (1). If a failure to make and collect sufficient rates renders it necessary to borrow under sub-s. (2), the treasurer will be entitled to his principal and interest, but the persons responsible for the failure or neglect, if it has been wilful, will be liable to surcharge in respect of the loss represented by the interest: so too, if instead of borrowing from the treasurer they use for current purposes moneys raised, but not at present required, for other objects, they may be surcharged in respect of the loss of the interest which those moneys ought to have been earning, and possibly even, in an extreme case, with loss of interest on the receipts from a supplementary rate which ought to have been levied.

(4) This section shall have effect as from the appointed day.

Power for securing payment of precepts.

13.—(1) (*a*) Where in pursuance of a precept issued by an authority (in this section referred to as "the precepting authority"), after the passing of this Act, any amount is payable directly or indirectly by a rating authority to the precepting authority and, on an application for a certificate by the precepting authority made after twenty-one days'

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notice given to the rating authority, the Minister is satisfied that the rating authority have refused or through wilful neglect or wilful default failed to raise that amount by a rate, or that, having raised the amount by a rate, the rating authority have refused or through wilful neglect or wilful default failed to pay the amount due under the precept, the Minister may issue a certificate to that effect and thereupon—

(a) the precepting authority shall have the like power of applying for a receiver; and

(b) a receiver may on such an application be appointed in like manner, and when appointed shall have the like power

as if—

(i) the precepting authority were a secured creditor of the rating authority for the amount due under the precept, with interest thereon at the rate of six per cent. per annum from the date when the amount became payable under the precept; and

38 & 39 Vict. c. 83.

(ii) the said amount and interest were due under a security issued under the Local Loans Act, 1875 (*b*), charging them on the rates leviable by and on all other property of the rating authority; and

(iii) the conditions under which a receiver may in such a case be appointed under section twelve of that Act were fulfilled;

and the said section shall apply accordingly.

(*a*) This section reproduces in substantially the same words s. 2 of the Local Authorities (Financial Provisions) Act, 1921, which was enacted shortly after the events leading up to the cases of *R.* v. *Poplar Borough Council*, [1922] 1 K. B. 72; 85 J. P. 273; [1922] 1 K. B. 95; 85 J. P. 259; and which only applies to cases of default by a Metropolitan Borough Council.

The section is obviously appropriate only to a case of wilful default calling for the intervention of the High Court: for a case of mere dilatoriness in satisfying a precept, the power to charge interest given by s. 9 (2) (g) should be sufficient; but until the 1st April, 1929, that provision will apply only to precepts of guardians.

(*b*) See the provisions of the Local Loans Act, 1875, s. 21, in Vol. 2 of Lumley's "Public Health Acts."

(2) If the Minister so thinks fit, an application under this section may be made by him instead of by the precepting authority.

(3) The powers of this section shall be in addition to and not in derogation of any other powers for enforcing compliance with a precept issued to a rating authority.

There would appear to be an alternative remedy by way of *mandamus*, cf. *R.* v. *Poplar Borough Council*, *supra*. The existing power of distress against overseers, even if available against the new rating authorities, could seldom be a satisfactory remedy.

Limitation of right to appeal to quarter

14. No appeal against a rate shall lie to quarter sessions in respect of any matter in respect of which relief might have been or might be obtained under the provisions of Part II. of this Act by means of an

objection to the draft valuation list or to any alteration, insertion or correction made therein or by means of a proposal for the amendment of the current valuation list.

Section 14. — sessions against rate.

A right of appeal to quarter sessions against a poor rate has existed since 1601, having been given by s. 5 of the Statute of Elizabeth (43 Eliz. c. 2). Under that section as amended by the Poor Relief Act, 1743, and the Poor Rate Act, 1801, the right is given to any person who finds himself aggrieved by any poor rate, or has any material objection to any person being inserted in or left out of such rate, or to the sum charged on any person therein.

When, however, the modern system of valuation lists was introduced, the right of appeal to quarter sessions was qualified by s. 1 of the Union Assessment Committee Amendment Act, 1864, which provides that so long as a poor rate is made in conformity with the valuation list an aggrieved person shall not appeal to quarter sessions until he has given to the assessment committee notice of objection against such list, and has failed to obtain from them such relief as he deems just. When he has satisfied this condition, he can appeal—not technically against the list or the committee's decision, but against the rate.

This Act preserves the general right of appeal to quarter sessions against a rate, and makes it applicable to special and general rates made under the Act (ss. 2 (3), 3 (2); but it repeals s. 1 of the Act of 1864, and substitutes in this section a new limitation on the right of appeal in lieu of the existing condition precedent. An aggrieved ratepayer is not to appeal to quarter sessions against the rate itself, if his grievance is one which under the Act he could raise before the assessment committee. In such a case he must first go before the committee; and then, if dissatisfied, he can appeal to quarter sessions under the appeal code contained in ss. 31–36, *post*, against their decision.

The provisions of the Act under which a grievance can be raised before the committee are: s. 26 (1), where any person is aggrieved by the incorrectness or unfairness of any matter in the *draft* list, or by the insertion therein or omission therefrom of any matter, or by the valuation as a single hereditament of a building or a portion of a building occupied in parts, or otherwise with respect to the list; s. 27 (2), where any person is aggrieved by any alteration, insertion, or correction made in the *draft* list by the committee otherwise than in determining an objection; s. 30, where a person is aggrieved by the correction of an error, alleged to be merely clerical or arithmetical, in a valuation list; and s. 37 (1), under which a person aggrieved by any incorrectness, etc., in a *current* valuation list may make a "proposal" for its amendment.

The result of the foregoing provisions will be that appeals under the original statutes against "a rate" will in future be very few in number, being limited practically to appeals on the ground of some illegality. The great majority of appeals, *i.e.* those arising out of assessment, will be appeals under this Act against a decision of the committee upon an objection or proposal.

Substantially, however, the position of an aggrieved ratepayer will be very much the same as in the past, except that in counties his appeal against a decision of the committee will not be heard by the full court of quarter sessions but by an appeal committee of from five to seven justices (s. 32).

Another minor point may be noted: An appeal against "a rate" for a parish in a union may now, if the guardians are interested therein, be taken to the quarter sessions having jurisdiction over any parish in the union (Poor Law Amendment Act, 1867, s. 27). So that, if the union extends into both a county and a quarter sessions borough, an appeal against a rate for a parish in the borough may be taken to the quarter sessions for the county, or the borough. But an appeal under this Act against a decision of the committee must be taken to the quarter sessions for the county or place where the hereditament to which the objection relates is situate (s. 31 (1)).

Whether s. 27 of the Act of 1867 will in future be held applicable to a general rate levied for a rating area may perhaps be questioned.

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The existing right of appeal on questions of value to special sessions will no longer be available to an aggrieved ratepayer, the Parochial Assessments Act, 1836, ss. 6, 7, being repealed by this Act (s. 69, Sched. VIII.).

The existing right of appeal against a distress warrant (after execution) under the Poor Relief Acts, 1601, s. 5, and 1743, s. 7, is not affected by this Act.

Recovery of rates from tenants and lodgers.

15.—(1) Where the rates due from the person rated for any hereditament are in arrear, it shall be lawful for the rating authority to serve upon any person paying rent in respect of that hereditament, or any part thereof, to the person from whom the arrears are due, a notice stating the amount of such arrears of rates and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the rating authority until such arrears shall have been duly paid, and such notice shall, subject as hereinafter provided, operate to transfer to the rating authority the right to recover, receive, and give a discharge for such rent :

Provided that the right of the rating authority to recover, receive and give a discharge for any rent as aforesaid shall be postponed to any right in respect of that rent which may at any time be vested in a superior landlord by virtue of a notice under section six of the Law of Distress (Amendment) Act, 1908.

8 Edw. 7, c. 53.

This section is evidently modelled upon s. 6 of the Law of Distress (Amendment) Act, 1908.

It should be of assistance to an authority in collecting their rates in cases where a landlord, resident on the premises or not, having let a house or a part thereof at an inclusive rent, collects the rent—each instalment of which really includes some rates collected for the authority—but pays nothing as long as he can evade doing so.

It will enable the authority to intercept rent due to the defaulter either from tenants or lodgers (see sub-s. (3)), but only rent due in respect of the particular property ; and it only applies where the defaulter is "rated," not where he has agreed to pay the rates under s. 11 (2).

"The right to recover" which is transferred will presumably be subject to the right of the tenant under the Income Tax Acts to deduct any sum paid by him in respect of the landlord's property tax.

(2) This section shall have effect as from the appointed day.

Use may be made of the section at any time after the 1st April, 1927, and its operation is not limited to rates becoming due after that date ; it may, therefore, be possible to recover some accrued arrears by means of it.

(3) In this section the expression "rent" includes a payment made by a lodger.

Strictly speaking, a payment made by a lodger who has not exclusive possession free from any control by his landlord is probably not "rent."

PART II.

VALUATION.

Areas and Authorities.

16.—(1) Subject to the provisions of this Part of this Act county boroughs and such other areas as may be constituted by schemes made under this section shall be assessment areas for the purposes of this Part of this Act. Assessment areas.

Every county borough will form an assessment area, if the council so decide, but they may agree under sub-s. (3) to join in framing a scheme for the constitution of a larger area.

(2) As soon as may be after the passing of this Act the council of every county shall, after consultation with the authorities of the rating areas in the county and with the boards of guardians of the poor law unions situate wholly or partly in the county, make and submit to the Minister a scheme for the constitution of assessment areas consisting of one or more rating areas.

There need not be more than one assessment area in a county.

It is essential that the whole of every rating area shall be within one assessment area. The other points indicated for consideration in fixing assessment areas are set out in sub-s. (10). On the one hand uniformity in valuation—which is one of the main objects of the Act—calls for areas as few in number and as large as possible; on the other hand, an area must not be too large if its assessment work is to be properly supervised by an unpaid committee, each member of which has to travel to and from their place of meeting, frequently perhaps in some remote parish, if the plan of sitting in different places for the transaction of work arising locally is adopted.

The scheme, in addition to determining the area, will also make provision as to the constitution of the committee (s. 17 (4)), and as to the place or places of meeting when an assessment area includes two or more rating areas (Sched. I., 1 (a)).

(3) Any two or more councils, whether councils of counties or county boroughs, may make and submit to the Minister a joint scheme for the constitution of assessment areas.

The area of a county borough will not, necessarily, be large enough to form an ideal assessment area. It is true that ratepayers in a county district, liable to share common county charges with other county districts, may regard it as a grievance if they are linked for assessment purposes to a county borough which does not share those charges. On the other hand, as a rule, the poor law union will include one or more county districts as well as the county borough, and the inclusion of the whole in one assessment area would be a more equitable arrangement so far as union common charges are concerned.

(4) A copy of any scheme submitted to the Minister under sub-section (2) or subsection (3) of this section shall be forwarded forthwith

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by the council or councils submitting the scheme to the authorities of the rating areas and the boards of guardians of the poor law unions affected thereby.

The schemes must be submitted within six months of the passing of the Act (sub-s. (7)). In addition to sending the copies here referred to, the submitting councils must advertise the notice required by sub-s. (5).

(5) As soon as a scheme has been submitted to the Minister under this section, the council or councils submitting the scheme shall publish in one or more newspapers circulating in their area or areas a notice stating that the scheme has been so submitted and that a copy thereof is open to inspection at a specified place.

The scheme itself need not be published *in extenso*.

(6) No scheme submitted to the Minister under this section shall be of any effect unless and until it is approved by the Minister, and the Minister, after considering any representations with respect to the scheme which may be submitted to him by rating and other local authorities and any other interested parties (which representations rating and other local authorities and any other interested parties are hereby authorised to make), may approve the scheme with or without modifications.

The Minister, if he thought it desirable, might cause a local inquiry to be held (s. 61, *post*).

The approval is final—no submission to Parliament is required.

(7) If the council of any county fails to submit to the Minister within six months after the passing of this Act a scheme for the constitution of assessment areas, the Minister may himself make a scheme for the purpose after consultation with the councils and boards of guardians concerned.

Here again the Minister's action cannot be challenged. Before making the scheme he must comply with sub-s. (9).

(8) Any scheme made under this section may be revoked or varied—

(a) by a new scheme made and submitted to and approved by the Minister in accordance with the provisions (subject to any necessary modifications) of subsections (2), (3), (4), (5) and (6) of this section; or

(b) by a new scheme made by the Minister on a representation made by any assessment committee or rating authority, and after consultation with the councils and boards of guardians concerned.

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(9) Before a scheme is made by the Minister under this section, he shall publish in one or more newspapers circulating in the areas to which the scheme relates, a notice stating his proposal to make the scheme, and that a copy of the draft scheme is open to inspection at a specified place and specifying a date by which any persons affected may send to him representations with respect to the draft scheme.

(10) In making schemes under this section regard shall be had to the population and rateable value of the rating areas which will be affected by the scheme and to the desirability that each assessment area shall have an administrative centre which is appropriate for the carrying out of the work of assessment in the area and convenient for the attendance of the persons interested therein, and that suitable premises (*a*) for the transaction of the business of the assessment committee for the assessment area shall be available without unnecessary expenditure.

(*a*) See notes to s. 47, *post*, as to the use of public rooms by an assessment committee.

Assessment committees.

17.—(1) There shall be an assessment committee for every assessment area.

The new assessment committees are not incorporated by the Act (cf. Sched. I., 9). Throughout the Act "assessment committee" *simpliciter* means a new assessment committee as opposed to a union assessment committee (s. 68 (1)).

As to the construction of references in other documents to union assessment committees, valuation lists, etc., see s. 69 (2).

See as to the transfer of existing officers to the new committees, ss. 48 *et seq.*; as to their power to appoint officers, ss. 38, 55; as to their expenses and accounts, ss. 53, 54; and as to the transfer to them of property and books, etc., Sched. VII., 1, 2, 5 (5).

(2) The assessment committee for an assessment area shall, in the case of an assessment area being a county borough, be appointed as soon as may be after the passing of this Act, and in the case of any other assessment area shall be appointed as soon as may be after the assessment area has been constituted (*a*), and as from the appointed day assessment committees shall exercise such powers and perform such duties as are conferred on them by this Act, and all assessment committees constituted under the Union Assessment Acts, 1862 to 1880 (*b*), shall cease to exist.

(*a*) In the case of a county borough the assessment committee can be appointed as soon as it is decided that no joint scheme shall be framed under s. 16 (3); but there seems to be no point in making an immediate appointment. Apart from possible conferences under s. 18 (2) and appointing a representative on the central valuation committee (s. 57 (1)), the committee will have nothing to do until the 1st April, 1927, beyond considering their position and duties generally, and making preliminary arrangements with regard to staff, etc.

In the case of an assessment area formed under a scheme, the appointments should be made as soon as possible after the scheme is approved. The committee

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will have to appoint a representative to the county valuation committee under s. 18 (1), and will have to decide at an early date which rating authorities within the area are to bring their first new valuation list into force on the 1st April, 1928. No time must be lost in deciding this point, as the rating authorities will have to commence preparing their draft lists not later than the beginning of 1927.

(*b*) Including committees constituted under local Acts (see s. 68 (3)).

See s. 65 as to the powers which assessment committees and rating authorities can exercise before the appointed day, and as to the duty of their predecessors to assist them.

As from the appointed day the new assessment committees will take over the work of hearing objections under the existing law (see s. 69 (3)).

(3) In the case of an assessment area being a county borough, the assessment committee shall consist of such number of persons to be appointed by the council of the borough as may be determined by the council, and of the persons to be so appointed not less than one-quarter shall be persons appointed to represent the boards of guardians of any unions any parts of which are comprised in the area of the borough and not less than one-fifth shall be persons who are neither members of the council of the borough nor members of any such board of guardians as aforesaid.

The persons appointed as aforesaid to represent boards of guardians shall be persons nominated by the boards.

The council of the borough "appoint" all the members, though some will be "nominated" by boards of guardians; and the council will decide in the case of all members how long the term of office is to be (Sched. I., 10). Five years is the limit, and a member can resign at any time (*ibid*).

The guardians' nominees need not be guardians, nor need any appointee necessarily be a member of the council.

As to special representation on committees of Oxford and Cambridge Universities (and any other body having similar rights), see s. 64 (4).

No authority may appoint or nominate one of its officers to serve on the committee, and no member of a rating authority who is a member of any committee which prepares the draft valuation list is eligible (Sched. I., 12); and a rating authority cannot delegate to a committee the power of making appointments (s. 1 (3)).

As to disqualification generally, see Sched. I., 12; and as to casual vacancies, Sched. I., 4.

No member of an assessment committee may receive any remuneration for his services (Sched. I., 13), but see s. 53 (2) as to certain out-of-pocket expenses.

As to the quorum, place of meeting, and proceedings of assessment committees generally, see Sched. I.

Assessment committees are required to make annual reports to the Minister and to various bodies (Sched. I., 7).

(4) In the case of any other assessment area the assessment committee shall consist of persons to be appointed by the following authorities, being authorities whose area or any part of whose area is comprised in the assessment area, that is to say, rating authorities, boards of guardians and the councils of counties, and the proportion in which the said authorities shall be represented shall be determined by the scheme constituting the area.

Where the area comprises two or more rating areas, the scheme is also to make provision as to the place or places of meeting (Sched. I., 1 (a)). See also notes to preceding subsection.

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(5) The provisions contained in the First Schedule to this Act shall have effect with respect to assessment committees.

18.—(1) For the purposes of this Part of this Act there shall be established in every county a committee of the county council (to be called "the county valuation committee") consisting of such number of persons, being members of the council of the county, as the council may think fit to appoint and of a representative of the assessment committee for each assessment area which, or any part of which, is comprised in the area of the county to be nominated by the assessment committee.

County valuation committees.

No date is specified for the appointment of the committee, but it cannot be fully constituted until all assessment committees have been appointed. Presumably, however, a county council will fix the number of, and appoint, their own representatives in good time, so that the committee may get to work as soon as possible after all the assessment committees are appointed. If recommendations of the committee are to have any effect upon the first new valuation lists there will be little time to spare. A county borough assessment area will not be represented on the committee, but may be a party to the conferences contemplated by sub-s. (2).

(2) It shall be the duty of every county valuation committee to take such steps as the committee think fit for promoting uniformity in the principles and practice of valuation and assisting rating authorities and assessment committees in the performance of their functions under this Part of this Act, and for the purpose of the performance of the said duty the committee shall have power, either alone or in conjunction with county valuation committees for other counties, to hold conferences with persons representing assessment committees (including assessment committees for county boroughs), and to bring to the notice of any rating authorities or assessment committees any conclusions arrived at or recommendations made by the committee or at any such conference.

As a county valuation committee is to promote uniformity of valuation in its county, so the central valuation committee (s. 57) is to survey the position as regards the whole country.

The committee have no power to issue directions or orders. They can "recommend," and, if their advice is not followed, they can endeavour to force it upon an assessment committee by exercising their right to lodge objections to, or proposals for the amendment of, their valuation list, following them up, if necessary, by appeals.

Apart from questions affecting all counties, a county boundary may cut through an industrial district—*e.g.* a cotton-spinning district, or a coal-mining district—and both counties will be interested in the same special rating problems; so, too, may be a county borough on either side of the boundary.

As to repayment to members of the committee of expenses incurred by them in

Note to Section 18. attending such conferences, see s. 53 (2). And as to the committee's power to appoint valuers and officers, see ss. 38, 55.

(3) A county valuation committee may, either alone or in conjunction with any rating authority, assessment committee or other county valuation committee, appear as a party to any objection or appeal under this Part of this Act (*a*):

Provided that the committee shall not be entitled so to appear in opposition to any objection made or appeal brought by the occupier of the hereditament affected unless not less than three days before the date of the hearing of the objection or, in the case of an appeal, such longer period as may be required by the rules (*b*) relating to appeals, the committee have given notice in writing to the occupier stating their intention so to appear and the grounds of their opposition or the representations which they propose to make at the hearing.

(*a*) Cf. also s. 53 (3) as to joint action by assessment committees.

It is their right to lodge and contest appeals which is the committee's effective weapon for securing uniformity of assessment throughout the county.

(*b*) *I.e.* rules made under s. 34.

(4) Notwithstanding anything in this section, subsections (1) and (2) of section eighty-two of the Local Government Act, 1888 (which relates to the proceedings of committees appointed by county councils), shall apply in relation to the county valuation committee, and subsection (3) of section eighty of the said Act shall apply in relation to expenditure incurred or to be incurred in connection with the exercise by the committee of its functions as it applies to any other expenditure of a county council.

The provisions referred to are—

82.—(1) A county council appointing under this Act any committee may from time to time make, vary, and revoke regulations respecting the quorum and proceedings of such committee, and as to the area (if any) within which it is to exercise its authority; and subject to such regulations the proceedings and quorum and the place of meeting, whether within or without the county, shall be such as the committee may from time to time direct, and the chairman at any meeting of the committee shall have a second or casting vote.

(2) Every committee shall report its proceedings to the council by whom it was appointed, but to the extent to which the council so direct, the acts and proceedings of the committee shall not be required by the provisions of the Municipal Corporations Act, 1882, to be submitted to the council for their approval.

80.—(3) Every county council shall from time to time appoint a finance committee for regulating and controlling the finance of their county; and an order for the payment of a sum out of the county fund, whether on account of capital or income, shall not be made by a county council, except in pursuance of a resolution of the council passed on the recommendation of the finance committee, and (subject to the provisions of this Act respecting the standing joint committee) any costs, debt, or liability exceeding fifty pounds shall not be incurred except upon a resolution of the council passed on an estimate submitted by the finance committee.

The important provision is the last, which makes the committee subordinate to the council in regard to expenditure. The committee will, presumably, be required to submit periodical estimates of expenditure.

Valuation Lists.

Making and operation of new valuation lists.

19.—(1) A new valuation list shall be made in accordance with this Part of this Act for every rating area so as to come into force either on the first day of April, nineteen hundred and twenty-eight, or the first day of April, nineteen hundred and twenty-nine, and a second new valuation list shall be so made so as to come into force for every such area on the first day of April, in the year nineteen hundred and thirty-two, the year nineteen hundred and thirty-three, or the year nineteen hundred and thirty-four, and thereafter new valuation lists shall be made from time to time so that the interval between the dates on which one valuation list and the next succeeding valuation list respectively come into force shall be a period of five years :

Provided that the Minister may by order—

(a) on the application of the assessment committee for any assessment area, extend or reduce by six months the interval which would otherwise elapse between the coming into force of any two successive valuation lists for any rating area, and may for that purpose substitute the first day of October for the first day of April, and (in the case of such a substitution having been made) thereafter substitute the first day of April for the first day of October, as the date on which a new valuation list is to come into force ; and

(b) on the application of any rating authority made with the concurrence of the assessment committee, divide the rating area into parts for the purposes of a new valuation list and determine the years in which the next following valuation list for each of such parts respectively shall be made in pursuance of such order and come into force.

The date on which the first new list comes into force in an area is called " the date of the first new valuation " (s. 68 (1)).

Except in the rare cases contemplated by proviso (b), there will be a separate valuation list for each rating area.

The Act is based upon the principle of quinquennial lists ; but it was evidently considered that a " spread " of valuation work over the whole county was desirable. Accordingly, two alternative years are specified for the first new list, 1928 and 1929, and three alternatives for the second, 1932, 1933, and 1934 (1931 being a London valuation list year). The ultimate choice of dates rests with the assessment committee of the area—sub-s. (3). After the second new list, the period between new lists will be five years in every case, except when action is taken under proviso (a) or (b). As to the form of lists, see s. 21 ; and as to the procedure for making lists, see ss. 25 *et seq.*

The spread of the first new valuation lists between two succeeding years, 1928 and 1929, may occasion some temporary inequities in the distribution of local burdens during the one year 1928–9 ; but it is impossible to say to what extent. The new lists will give effect to two new reliefs, to machinery (s. 24) and to agricultural buildings (Sched. II., Part II., 2). The former will affect both the net annual value and the rateable value of the hereditaments concerned ; the latter will affect rateable value, but not net annual value. On the other hand, a revaluation in most

Note to Section 19.

areas may be expected to show considerable increases of value; and the result may be that (notwithstanding the new reliefs) there will be an increase of total values. At the same time the proportions in which, as between themselves, the ratepayers of the area contribute (whether to the expenses of the parish, the district, the union or the county) will almost certainly be varied by the first new list, and such variation will operate in some areas a year later than in others.

A more important point is whether the share of union and county charges falling upon a rating area as a whole will be substantially affected. As regards guardians' precepts, any alteration in total rateable value will affect the produce of a penny rate; and, if the alteration is substantial, will affect the proportions in which various rating areas in a union contribute to the requirements of the guardians during 1928–9.

In the case of county precepts, charges for the year in question, 1928–9, are to be distributed between areas in accordance with the county rate basis (Sched. VII., 10), apparently in proportion to reduced assessable values, *i.e.* totals of net annual values reduced by 75 per cent. of the value of agricultural land. If the new valuation list for a rating area revalued in 1928 shows a substantial decrease or increase in such total, the area may for that one year have to bear an unduly small or unduly large share of the county charges as compared with another area not revalued till 1929. Moreover, the amount apportioned to it will be actually raised on "rateable values" which will be lower, although in an area not yet revalued they will still be identical with reduced assessable values.

It seems not improbable that assessment committees may attempt, whenever such a course is practicable, to bring into operation in the same year all the lists for areas in any union. This would obviate any unfairness except as regards county charges.

(a) The normal date for new lists to come into force is 1st April, and this will be the date for all first new lists, but subsequently it will be possible under this proviso for October to be substituted; where this is done, the date may again be changed to April.

(b) It may be presumed that this proviso will only be put into force in very exceptional cases. Where an area is valued in different years, especially at a time when values generally have been rising or falling, such an arrangement operates unfairly in the distribution of common burdens as between ratepayers in the different parts. This fact, indeed, is recognised in s. 26 (2).

Where such a division is effected, there will be thenceforth a separate list for each part of the area; and no power is given to combine the two parts again.

(2) Subject to the provisions of any such order as aforesaid, every new valuation list shall come into force on the first day of April next following the date (*a*) on which it is finally approved by the assessment committee, and shall, subject to the provisions of this Act (including the provisions with respect to the alteration of and the making of additions to the valuation list (*b*)), remain in force until it is superseded by a new valuation list.

(*a*) The latest date for approval is 31st January (or 31st July), s. 28 (1).

(*b*) *I.e.* under ss. 30, 35, 37.

(3) The question as to the year in which the first or the second new valuation list for any area is to come into force shall be determined by the assessment committee after consultation with the rating authority.

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The question of the date for the first new list in each rating area is one of the earliest points which an assessment committee will have to consider; the rating authorities whose lists are to come into force in 1928, will have to issue their forms of return under ss. 25, 40, as early as possible, See as to this, s. 65.

Effect of valuation list. 10 Edw. 7, and 1 Geo. 5, c. 24.

20.—(1) For the purpose of every rate (*a*) as defined by this Act, and for the purpose of determining the annual value of premises under the Licensing (Consolidation) Act, 1910 (*b*), or under the enactments relating to the qualification of a manager of a school or asylum district (*c*), or, save as hereinafter mentioned, of a juror (*d*), the valuation list as in force at the time when the rate is made or the value of the premises is to be determined, shall be conclusive evidence of the values of the several hereditaments included in the list:

Provided that for the purposes of determining the qualification of a special juror (*e*) the rateable value of premises shall be taken to be the net annual value as appearing in the list.

(*a*) See definition of "rate" in s. 68 (1). It may be noted that this Act does not make the valuation list conclusive for the purpose of "annual value" under s. 68 of the Waterworks Clauses Act, 1847, as was done in the Metropolis by the Water Rate Definition Act, 1885; but, of course, many water companies are already authorised by their special Acts to base their charges on valuation list values, and Public Health Act water undertakings use those values under s. 56 of the Public Health Act, 1875.

(*b*) An applicant for an excise licence authorising him to sell intoxicating liquor must in the case of most licences first obtain a justices' licence (or certificate) authorising him to hold the particular excise licence desired. When he applies to the justices, he must satisfy them that the premises upon which he proposes to sell have the value qualification prescribed for the particular class of licence. At present justices determine the value in such cases under s. 39 of the Licensing (Consolidation) Act, 1910, by "such means as may seem to them best."

The value so ascertained does not govern the amount of excise duty payable on the licence.

(*c*) There is not in existence any asylum district under the Poor Law Amendment Act, 1844, s. 41. There are six school districts in existence under *ibid.* s. 40. The qualification for a manager is being rated to the poor rate upon an annual rateable value of £5 (s. 42: General Order of 12th September, 1894).

(*d*) The common jurors' qualification referred to is: "being a householder . . . rated or assessed to the poor rate . . . in the county of Middlesex on a value of not less than £30, and in any other county on a value of not less than £20 (Juries Act, 1825).

(*e*) The qualifications of a special juror under s. 6 of the Juries Act, 1870, are: (i) a man legally entitled to be called "esquire" or a person of "higher degree"; (ii) a banker or merchant; (iii) property qualifications: (a) occupation of a private dwelling-house rated to poor rate at £100 or over (£50 outside the larger towns); (b) occupation of premises other than a farm rated at £100 or over; (c) occupation of a farm rated at £300 or over.

The proviso preserves the existing position in the case of the last-named qualification, for it is the "net annual value" (and not the "rateable value") of agricultural land under this Act which corresponds to the old "rateable value" thereof (see s. 22, *post*, and notes thereto).

(2) Where for the purposes of the Licensing (Consolidation) Act, 1910, it is necessary to make a separate valuation of any hereditament

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by reason of its not being separately valued in any valuation list, the value of that hereditament shall be ascertained in the same manner as if this Act had not passed.

In a few cases the extent of the rateable hereditament dealt with in the valuation list will not coincide with that of the "premises" as to the value of which the justices have to be satisfied for the purposes of the Licensing Acts (see note (*b*), *supra*). In such a case the justices are to determine the value of the premises as they think best.

Contents of valuation list.

21.—(1) Subject to the provisions of this Act, there shall be inserted in the valuation list such particulars with respect to every hereditament (*a*) in the rating area and the value thereof as may be prescribed (*b*).

(2) The particulars with respect to each parish in the rating area shall be set out in a separate division of the valuation list.

(*a*) See definition in s. 68 and note thereto; and see s. 64 (3) as to the inclusion of property in respect of which the Crown makes a contribution in lieu of rates.

(*b*) *I.e.* under s. 58.

The present form of valuation list, which must contain "all the *rateable* hereditaments" in the parish (Union Assessment Committee Act, 1862, s. 14) is prescribed by the Agricultural Rates Order, 1896. It contains columns headed: name of occupier; name of owner; description of property; name or situation of property; estimated extent; gross estimated rental; rateable value of buildings and other hereditaments not being agricultural land; rateable value of agricultural land.

Ascertainment of rateable value.

22.—(1) For the purposes of the first new valuation list to be prepared under this Act and of any subsequent valuation list the rateable value of a hereditament shall be ascertained as follows:—

(a) If the hereditament belongs to one of the classes specified in the first column of the table contained in Part I. of the Second Schedule to this Act (*a*), there shall be deducted from the gross value (*b*) of the hereditament an amount representing the deduction specified with respect to hereditaments of that class in the second column of the said table, and also, in the case of a hereditament subject to any rate, charge, or assessment made by any commissioners of sewers (*c*) or other like authority in respect of any drainage, wall, embankment, or other work for the benefit of the hereditament (not being a usual tenant's rate), such further amount as represents the average annual amount of that rate, charge, or assessment, and the gross value as so reduced is in this Act referred to as the net annual value (*d*):

(b) If the hereditament is not such a hereditament as is mentioned in paragraph (a), there shall be estimated the rent at which the hereditament might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and tithe rentcharge, if any, and to bear the

cost of the repairs and insurance and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent, and the annual rent as so estimated shall, for the purposes of this Part of this Act, be taken to be the net annual value of the hereditament (*e*):

(c) The rateable value of a hereditament shall be taken to be the net annual value thereof as ascertained under paragraph (a) or paragraph (b), as the case may be, except that if the hereditament belongs to one of the classes specified in the first column of the table contained in Part II. of the said Schedule, its rateable value shall be taken to be the amount produced by making from the net annual value such deduction as is specified with respect to hereditaments of that class in the second column of the said table (*f*).

(d) If the amount of the net annual value and of the rateable value, in a case where those values are the same, or in any other case the amount of the rateable value, includes a fraction of a pound, the amount of both those values or of the rateable value, as the case may be, shall be increased or reduced, as the case may be, to the nearest complete pound, or if the fraction is ten shillings the fraction shall be disregarded (*g*).

This section lays down the method to be adopted in ascertaining rateable value for the purpose of valuation lists prepared under this Act. It departs in two important respects from the existing practice, viz. (i) in the case of certain classes of property no gross value is required, and (ii) in the case of those classes of property for which a gross value is to be determined the deductions to be made from gross value in order to arrive at net annual value are fixed by reference to a scale, and are no longer left to the discretion of assessment committees.

At present in all cases, in theory at any rate, the first stage in the process of valuation is to determine the "gross estimated rental" of the hereditament, *i.e.* the rent at which the hereditament might reasonably be expected to let from year to year, free of (*i.e.* if the tenant paid) all the usual tenant's rates and taxes and tithe commutation rentcharge, if any (Parochial Assessments Act, 1836, s. 1; Union Assessment Committee Act, 1862, s. 15), and if the landlord bore the cost of repairs, insurance, and other expenses, if any, necessary to maintain the hereditament in a state to command such rent.

From the gross estimated rental (or "gross value," or "gross," as it is commonly called) should be deducted the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain the hereditament in a state to command the rent (in rating parlance generally spoken of as the "statutable deductions" or "statutables"). The resulting figure is the "net annual value" (often called "net value" or "rateable value") upon which poor rates are levied.

In the case of houses the method of arriving at "net" by first fixing the "gross" and then deducting the "statutables" is not unsatisfactory; for houses are frequently let at a "gross" rent, *i.e.* landlord repairing; and the rents in such cases afford a guide in valuing comparable houses which are let at "net" rents, or are owner-occupied. Mills, factories, etc., are, however, seldom let at gross rents, those which are not owner-occupied being almost invariably let on tenant repairing terms; and, therefore, such rents as exist are a guide to net value and not to gross value. In practice, accordingly, it is not an uncommon practice for a valuer in dealing with such properties to determine the "net" direct, and then to build up a "gross" by adding an estimated figure to represent the "statutables." This

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involves unnecessary work, for the "gross" is of no practical use; and it also involves risk, for the occupier may (as case law allows him to do) accept the gross value as correct, and then prove that the cost of repairs exceeds the difference between the gross and the net, in which case he is entitled to have the net reduced, although perhaps the net is really correct and the gross too low. Hence, valuers, after estimating a net value direct, are inclined to add an absurdly large figure to represent statutables in order to be on the safe side, with the result that the gross value is entirely fictitious.

It is probably for the reasons stated above that the Act whilst preserving the old practice in the case of the properties mentioned in Sched. II., Part I., recognises the practice of estimating net annual value direct in the case of mills, manufactories, etc.

Hitherto there has not been (outside London) any statutory scale for determining the amount to be deducted in respect of repairs, insurance, etc. In the case of dwelling-houses most assessment committees have adopted scales of deductions for their own guidance, but such scales have differed widely; for instance, it has been stated that in one county, fourteen unions have scales for houses under £20 gross value, and that such scales allow a deduction varying from 10 per cent. up to 30 per cent. The adoption in this Act of fixed percentage deductions is no doubt designed to secure greater uniformity in valuation.

The Act recognises three distinct values—"Gross value" (defined in s. 68 (1), *post*), "net annual value" (see para. (a) of this subsection), and "rateable value" (see para. (c) of this subsection). Rateable value is the operative value on which rates will be levied; in most cases it will be the same as the net annual value, but it will be a lower figure in the case of hereditaments entitled to certain reliefs. Hitherto rateable value and net annual value have been synonymous, and the distinction now introduced may at first give rise to misunderstandings.

(*a*) Broadly stated, the hereditaments contained in Part I. of Sched. II. are land, and houses and buildings (excluding mills, manufactories, or premises of a similar character used wholly or mainly for industrial purposes or hereditaments valued as part of a "public utility" undertaking).

(*b*) Gross value is defined in s. 68 (1) in terms which are for practical purposes identical with the existing definition of gross estimated rental; the proviso to the new definition (applicable to a building consisting of flats or office suites) should be noticed, but appears to be merely declaratory.

(*c*) The fixed percentage deductions allowed by Sched. II., Part I., are obviously intended to cover what may be called the "normal" expenses of repairing and maintaining ordinary hereditaments. In low-lying areas, land, and sometimes houses and buildings, are often subject to heavy annual charges or rates for the maintenance of sewers, flood walls, embankments, etc. At present, if such rates are payable by the occupier, an allowance is made for them in estimating the gross as being a "usual tenant's rate"—his liability for which reduces the rent which he may be expected to pay; if they are payable by the owner, a deduction is made from the gross in respect of them as being an expense necessary to maintain the hereditament (*R.* v. *Hall Dare* (1864), 34 L. J. M. C. 17; *R.* v. *Gainsborough Union* (1871), L. R. 7 Q. B. 64; *Green* v. *Newport Union*, [1909] A. C. 35).

It would obviously be unfair not to allow an extra deduction in respect of such rates; and the Act in effect preserves the present position, see the proviso to the definition of "rate" in s. 68 as bearing on the definition of "gross value."

(*d*) The "net annual value" of the Act is, therefore, for practical purposes identical with the existing net annual value.

(*e*) In the case of hereditaments falling within para. (b) of this subsection no gross value will be calculated.

(*f*) The cases in which the "rateable value," *i.e.* the operative value on which rates will be levied, will differ from the net annual value are those mentioned in Part II. of Sched. II., viz. (1) agricultural land, (2) agricultural buildings, and (3) tithes, railway running lines, canals, canal towing-paths, land covered with water, and woodlands.

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As to (1), agricultural land is entitled to a 75 per cent. relief in respect of *all* rates in *both* urban and rural areas; effect will be given to this relief by levying *full* rates on a rateable value which is one-fourth only of the net annual value; as to (2) a similar relief is to be given to the classes of buildings specified in Sched. II., Part II.; as to (3), these properties enjoy a 75 per cent. relief in respect of *some* rates in urban districts only; as explained in the notes to s. 2 this relief will be given in urban rating areas by levying full rates on a rateable value which will be the net annual value reduced by the percentage found to be appropriate to the particular area.

There may also be some cases in which under s. 64 (1) (2) and special schemes made thereunder effect will be given to other "preserved" privileges by deductions from net annual value.

(*g*) An adjustment to the nearest complete pound is only to be made at *one* stage of the calculation. In the case of a hereditament not falling within para. (c) of this subsection if the net annual value works out at a fraction, both net annual value and rateable value will be adjusted. In the case of a hereditament within para. (c) the net annual value will not be adjusted; but if at the close of the calculation the rateable value works out at a fraction, that value will be adjusted.

(2) As from the date of the first new valuation any deduction made in pursuance of the provisions of Part II. of the said Schedule from the net annual value of agricultural land shall, so far as it affects the raising of money which if this Act had not passed would have been raised by rates to which the Agricultural Rates Acts, 1896 and 1923 apply, be treated for the purposes of those Acts as if it were the relief from rates for which provision is made by those Acts, and, subject as aforesaid, any deduction made in pursuance of the provisions of the said Part II. from the net annual value of any hereditament shall for all purposes be taken to be in substitution for any corresponding relief in respect of rating to which the occupier of that hereditament would have been entitled under the Acts relating to the public health, or any local Act, or otherwise, if this Act had not passed.

The subsection makes it clear that (except in the case of agricultural buildings) the reliefs given by Sched. II., Part II., by way of deductions from net annual value are not new and additional reliefs, but are in lieu of existing reliefs now given in the collection of the rate.

In the case of agricultural land the relief under this Act corresponds in part to the existing relief under the Agricultural Rates Acts, and in part to the existing relief under the Public Health Act and similar Acts. See as to the continuance of Agricultural Rates Acts grants, s. 69 (2).

"Local Act" includes Provisional Order (s. 68 (1)).

(3) The provisions set out in Part III. of the said Schedule shall have effect in relation to the deductions to be made under this section.

Assessment of certain buildings occupied in parts.

23.—(1) Where a building which was constructed or has been adapted for the purposes of a single dwelling-house, or as to part thereof for such purpose, and as to the remainder thereof for any purpose other than that of a dwelling or residence, is occupied in parts, the rating authority or the assessment committee in preparing, or revising a draft valuation list, or in amending a current valuation list,

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may, if they think fit, having regard to all the circumstances of the case, including the extent, if any, to which the parts separately occupied have been severed by structural alterations, treat the building or any portion thereof as a single hereditament, and a building or portion of a building so treated as a single hereditament shall, for the purposes of rating, be deemed to be a single hereditament in the occupation of the person who receives the rents payable in respect of the parts.

(2) This section shall have effect in any area for the purpose of the making of the first new valuation list under this Act for that area and for the purpose of the revision of that list and the making or revision of any subsequent list, but shall not have effect for the purpose of the making or revision of any other valuation list.

The object of this section is to facilitate and cheapen the collection of rates in case of a class of property which at present causes considerable difficulty to rating authorities and entails heavy expenses in rate collection. The class in question is what is commonly known as the "let out" house, *i.e.* a house originally built (or subsequently adapted) for use as an ordinary dwelling-house of several floors by one family (with sometimes a shop or office on the ground floor) which is now let out in a number of "sets" of rooms, or single rooms, to separate tenants. As a rule no attempt has been made to structurally subdivide the building into self-contained tenements; changes of tenancy are frequent, and often there is more or less complete "fluidity of rooms," *i.e.* a room occupied by A this week may next week be transferred to his neighbour B.

At present, if the lessee or owner of the building himself occupies some of the rooms, he is usually treated as the occupier of the whole building, and it is assessed as a whole in his name.

Where, however, he does not live on the premises, the present law, which is contained in a franchise and not a rating enactment, viz. s. 7 of the Representation of the People Act, 1867, is anomalous and unsatisfactory. If such a house "let out" in parts not separately rated in 1867 (a) is situated in a parliamentary borough, and (b) has all its rooms used at the time as dwellings, the owner *must* be rated in respect of the whole, otherwise the occupier of each "let out" part is rated in respect of it.

The distinction in (a) has no relevance whatever to rating conditions; whilst (b) creates anomalies because a house changes from one category to another if (*e.g.*) one room on the ground floor is turned into an office or small shop, and again if it ceases to be so used.

In cases where it is necessary to rate the various occupiers it becomes necessary to value separately almost every room, and it is difficult to keep the rate books in agreement with the changing facts of the various tenancies.

The section provides that, whether the owner or lessee of such a "let out" house resides on the premises or not, the rating authority –in parliamentary boroughs and elsewhere—may, if they think fit, in preparing a draft list treat the building or any portion thereof as a whole in the occupation of the person receiving the rents of the let-out parts; presumably, too, if it is not so treated in a current list, they may make a proposal to have it so treated under s. 37 (1). Conversely, the owner may object to it being treated as a whole (s. 26 (1)), or may make a proposal to have it assessed in parts (s. 37 (1)). The assessment committee in deciding any such proposal or objection are to take into account all the circumstances of the case, including the amount of structural severance (if any).

The section has no application to a building constructed for the purpose of "flats" or "tenements."

The section comes into operation for the purpose of the preparation of the first valuation list under the Act.

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Valuation of hereditaments containing machinery and plant.

24.—(1) For the purpose of the making or revision of valuation lists under this Part of this Act (*a*), the following provisions shall have effect with respect to the valuation of any hereditament other than a hereditament the value of which is ascertained by reference to the accounts (*b*), receipts or profits of the undertaking carried on therein :—

(a) All such plant or machinery in or on the hereditament as belongs to any of the classes specified in the Third Schedule to this Act shall be deemed to be a part of the hereditament :

(b) Subject as aforesaid, no account shall be taken of the value of any plant or machinery in or on the hereditament (*c*).

(*a*) The relief here given to machinery users will therefore operate in 1928 in some areas, and in 1929 in others. It will not be possible to claim the benefit of the section in the interval upon an objection to lists made under the Union Assessment Acts.

(*b*) Railways are valued "on accounts," and so are gas, water, and electricity undertakings, tramways, and many dock and harbour undertakings. Presumably "accounts" must be construed as including "tonnage" figures, upon which coal mines are usually valued. See further as to properties valued "on accounts" the note to sub-s. (10).

(*c*) The rateability of plant and machinery has been the subject of controversy for some eighty years. On the one hand, a series of legal decisions has finally disposed of the contention that the test of rateability should be whether according to the law of fixtures a machine or piece of plant would belong to landlord or to tenant, and has gradually brought more and more plant and machinery into rating. On the other hand, machinery users have procured the introduction into Parliament of a series of bills designed to give relief to certain classes of plant and machinery, but none of them has passed into law.

For present purposes it appears to be unnecessary to refer to any case prior to the decision of the House of Lords in *Kirby* v. *Hunslet Union Assessment Committee*, [1906] A. C. 43 ; 70 J. P. 50 ; in which it was laid down definitely that "tenant's" machinery placed in a factory and used therewith for the business of the factory, whether it be affixed to the freehold or not, may be *taken into consideration* in assessing the factory to the poor rate. The judgments in the case, however, contained no direction as to the way in which plant and machinery should be "taken into consideration," or "taken into account," and those phrases have given rise to a lack of uniformity in practice, some unions considering that they complied with the law if after valuing the structure they added some, perhaps trifling, sum, to represent the increase in value due to the presence of the plant and machinery, while others valued the plant and machinery in detail (by applying the "contractor's principle") and thus in effect "rated" it as if it were actually part of the hereditament, and not merely something outside the hereditament to be taken into account in accordance with no definite principles. The problem was further considered in *Smith & Sons, Ltd.* v. *Willesden Union Assessment Committee*, [1919] 89 L. J. K. B. 137, where a divisional court held that the rateable value of a factory is measured by the rent which a hypothetical tenant would be willing to pay for the right to occupy the building and to use the machinery therein, it being assumed that the hypothetical landlord provided both building and machinery—although in fact the machinery was provided by and could be removed by the actual tenant. This decision seems to lay down, and has usually been accepted as laying down, that it is proper to value the machinery in such a case in accordance with the contractor's principle, *i.e.* by estimating its present capital value, and then applying some percentage thereto in order to arrive at the net annual value.

It will be seen that the present section gets rid of any ambiguity as to "rating" or "taking into account." The plant and machinery specified in Sched. III.—see notes thereto—is definitely made part of the rateable hereditament ; all other plant and machinery is to be disregarded.

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(2) The rating authority or the assessment committee, as the case may require, shall, on being so required in writing by the occupier of any hereditament, furnish to him particulars in writing showing what machinery or plant, or whether any particular machinery or plant, has been treated in pursuance of the provisions of this section as forming part of the hereditament.

It is for the rating authority to say what they have included in the deposited list to which the ratepayer may be proposing to object. After the hearing of an objection, if an appeal is under consideration, it is for the assessment committee to say what plant and machinery the figure approved by them includes.

(3) For the purpose of enabling all persons concerned to have precise information as to what machinery and plant fallwithin the classes specified in the said Third Schedule, there shall be constituted a committee consisting of five persons to be appointed by the Minister, and the said committee shall as soon as may be after the passing of this Act prepare a statement setting out in detail all the machinery and plant which appears to the committee to fall within any of the classes specified in the said schedule.

It is not intended that the courts shall have to construe the language used in Sched. III. A committee are to prepare a list of machinery and plant which appear to them to fall within the words of the schedule, and such list (after confirmation in the prescribed manner) is to have effect "as if it were substituted for" the schedule.

All experts who have studied the problem have recognised the great difficulty of defining in precise language any line to divide plant and machinery into two classes—rateable or non-rateable; and the unusual expedient here adopted suggests that Parliament also recognised the difficulty, when it decided to use general words, and to leave experts to draw up from those words a detailed catalogue, instead of itself attempting to frame a definition—which would almost inevitably have led to much expensive litigation.

(4) The committee shall as soon as the said statement has been prepared transmit it to the Minister, who shall cause it to be published in such manner as he thinks fit.

The statement will presumably be published by being printed and placed on sale so that persons interested may have an opportunity of making representations.

(5) The Minister, after considering the statement and any representations which may be made to him with respect thereto, may, if he thinks fit, make an order confirming it, with or without modifications, and, subject as hereinafter provided, the statement as confirmed by the order shall for all purposes have effect as if it were substituted for the Third Schedule to this Act.

The order confirming the statement shall as soon as may be after it is made be laid before both Houses of Parliament, and if either House within the next subsequent twenty days on which that House has sat next after the order is laid before it presents an Address to His Majesty against the order, or any part thereof, the order, or that part of the

order, shall thenceforth be void, but without prejudice to the validity of anything done thereunder and without prejudice to the making of a new order. Section 24.

It may be assumed that every effort will be made to get a statement duly confirmed in time for use in the preparation of the first new valuation lists.

(6) The statement confirmed as aforesaid shall be revised at such intervals as the Minister may direct, and the provisions of subsections (4) and (5) of this section shall, subject to the necessary modifications, have effect in relation to the revised statement as they have effect in relation to the original statement, except that a revised statement shall (subject to the provisions contained in subsection (5) with respect to the presentation of an address to His Majesty) come into operation on such date as may be specified in the confirming order.

The original statement will come into force upon the making of the Order of approval, but may be subsequently avoided by the presentation of an address. A revised statement will come into force only on a date named in the Order; such date may be so fixed as to allow time for the twenty days to expire; and, in that case, if an address is presented, the statement will never operate at all.

(7) For the purposes of this section there shall be constituted a panel of referees, and if on or in connection with any objection or proposal made or appeal brought under this Part of this Act a question is raised whether any particular plant or machinery falls within any of the classes or descriptions specified in the confirmed statement, that question may, with the consent in writing of the parties to the proceedings, be referred by the assessment committee or court, as the case may be, to and determined by such member of the panel as may be agreed on by the parties or, in default of agreement, as may be selected in accordance with rules made under this section.

The assessment committee, or quarter sessions, as the case may be, cannot insist on the question in dispute being referred to a member of the panel of referees. Unless all parties agree, the question will have to be settled in the ordinary way by a decision of the committee or court.

The question, of course, will be not whether the particular machine or piece of plant is within any words used in Sched. III., nor whether it ought to have been included in the "statement"; but whether it is in fact such a machine or piece of plant as some one or other of those named in the statement.

(8) The said panel shall consist of persons to be appointed by the Lord Chief Justice of England, and the Lord Chief Justice may make rules fixing the fees to be charged in respect of proceedings before a referee and with respect to the procedure on and in connection with references under this section and with respect to the selection of a referee in cases where the parties fail to agree as to the member of the panel to be appointed, and provision may be made by the rules for

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applying to references under this section (subject to the express provisions thereof) any of the provisions of the Arbitration Act, 1889, but except in so far as it may be so applied, that Act shall not apply to references under this section.

The provisions of the Arbitration Act as to stating special cases, for example, would in any case be inapplicable, for the referee's award is to be final and conclusive (sub-s. (9)).

(9) A referee under this section may, and shall if so required by any party to the reference, before making his award inspect the plant or machinery in respect of which the question arises, and the award of the referee shall be final and conclusive.

In most cases, inspection by a referee will probably enable him to give a decision without the necessity of calling witnesses.

(10) Nothing in this section shall affect the law or practice with regard to the valuation of hereditaments the value of which is ascertained by reference to the accounts, receipts or profits of an undertaking carried on therein, or be taken to extend the class of property which is under the law and practice as in force at the commencement of this Act deemed to be provided by the occupier and to form part of his capital.

The method of valuation "on accounts" (see note to sub-s. (1)) can best be understood by examination of an imaginary set of figures:

	£
Gross receipts of a gas company	9000
Deduct working expenses, excluding rates, repairs, insurance and maintenance	6000
Net receipts, available for landlord, tenant, rates and "statutables" ..	3000
Deduct tenant's share, *i.e.* a percentage on the capital which he would have to invest in the business—the percentage representing interest on his money, risk, remuneration for his skill and work, etc.: £9000 at 17½ per cent.	1575
Residue available for landlord, rates and statutables	1425
Deduct statutables	833
Residue available for landlord and rates	592
Deduct rates at the current poundage (say) 4*s.* 8*d.* on a rateable value ascertained by the formula 592 : R.V. : : 24*s.* 8*d.* : 20*s.* (viz. £480)	112
Net annual value (and also rateable value (s. 22 (1) (b) (c))) ..	£480

With regard to the provision in sub-s. (1) which excludes the operation of the section in the case of undertakings valued in this way, it will be noticed that the valuation is made of the undertaking as a whole, and is not arrived at by summing up values calculated separately for the component parts of the hereditament, viz. land, buildings, and plant.

There is, however, another point about valuations "on accounts" which requires to be noticed. When the net annual value of the whole undertaking has been calculated in the manner indicated above (Stage I.) that value must be apportioned

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between the various parishes, if (as is the case of most undertakings valued "on accounts") it extends into two or more parishes (Stage II.). For this purpose the undertaking is divided notionally into two portions, commonly spoken of as the "directly productive" part, *i.e.* the service mains and pipes which deliver the gas (or water, etc.) to the consumer, and which are therefore regarded as directly earning receipts, and the "indirectly productive" part, *i.e.* the generating works and larger mains, which are regarded as only indirectly productive of receipts. The latter—or indirectly productive—part is valued separately on the "contractor's principle," and the net annual value ascertained is deducted from the total net annual value of the whole undertaking, and allotted to the parish in which the indirectly productive part is situated; the balance of the total net annual value is then apportioned between all the parishes concerned in proportion to the amounts of the receipts taken in those parishes respectively. It will be seen, therefore, that although the section would not apparently—even if not expressly excluded—affect the first stage of a valuation "on accounts" it would affect the second stage of the calculation; for, if a large quantity of machinery in the generating works now rated was treated as exempt from rates, the value attributed to the indirectly productive part of the undertaking would be reduced. There would be no relief to the undertaking as a whole (except so far as the rates in some parishes might be lower than in others), for the total net annual value would be the same, but it would be differently distributed between the parishes.

The law and practice as to these valuations is not to be affected by the section.

As explained above, one of the deductions to be made from net receipts is in respect of the interest which a tenant would expect on his capital. The items allowed to rank as tenant's capital vary, of course, with the nature of the undertaking, but in the case of a gasworks the following would probably be the chief: cash for four or five months' wages, materials, and other working expenses; value of meters and public lamps in use and in store; value of stocks of coal, coke, and other materials; value of loose tools. Obviously, the larger the amount allowed in respect of tenant's capital, the larger will be the deduction under this head, and the smaller the resulting net annual value. At present a tenant is not assumed to provide anything in the nature of such plant and machinery as his hypothetical landlord is assumed to provide. If, however, the section applied to such undertakings as are now in question, it would be argued—and probably with success—that in future all such machinery and plant as is exempted from rating must be assumed to be provided by the tenant. The result would be a great increase in the tenant's capital and a corresponding diminution in the net annual value.

It will be noted that in the case of valuations on accounts the net annual value varies more or less in proportion to the profits made, and that where no profits are made there should be no liability to rates. In the case of a factory valued on the contractor's basis there is no necessary correspondence between rateable value and the trading results.

Preparation of Valuation Lists.

Making of draft valuation list.

25.—(1) Where the rating authority of any area have in pursuance of the provisions of this Part of this Act issued notices requiring returns in connection with the making of a new valuation list under this Part of this Act, the authority shall, as soon as may be after the expiration of the period allowed for the delivery of the returns, cause to be prepared a draft valuation list (in this Part of this Act referred to as "the draft list") for their area.

See s. 40, *post*, under which, whenever a new list is to be made, the rating authority are required to call for a return from every occupier, owner, or lessee.

Twenty-one days is the time allowed for completing and returning the form (s. 40 (3)), but it may be anticipated that many persons will be dilatory in the matter, and the notices should therefore be sent out a considerably longer period before the work of preparing the draft list is to be commenced.

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A form of valuation list will be prescribed under s. 58. The draft list will usually be prepared by a "rating committee" (see s. 1 (3)) with the assistance of the responsible officers of the authority. See s. 64 as to the saving for existing "principles" of valuation except in so far as they are *expressly* varied by the Act.

As to the power of rating authorities to employ a valuer, see s. 38.

(2) The rating authority shall, as soon as may be after the draft list has been prepared, cause it to be signed by their clerk and to be deposited in accordance with the provisions of this Part of this Act, and a copy thereof to be transmitted forthwith to the assessment committee.

Throughout the Act, "clerk" includes any officer of an authority authorised by them to act on behalf of the clerk (see s. 68 (1)).

See Sched. IV., Part I. Paragraph 1 thereof requires the original list to be deposited at the offices of the authority; paras. 2 and 3 direct certain notices to be served and published (see s. 46). The draft list must remain on deposit, and open to inspection, for twenty-one days from the date of publication of the notice (para. 4); and must then be transmitted to the assessment committee (para. 5). All returns received by the rating authority from owners, occupiers, and lessees must be also transmitted (s. 40 (4)).

The assessment committee will revise and approve the deposited draft. Presumably they will make the copy to agree and will keep it for their own use.

(3) The rating authority in preparing the draft list shall comply with all such directions as may be given by the assessment committee for the purpose of carrying into effect the provisions of this Part of this Act with respect to the procedure for the preparation of the valuation list.

E.g., as to the year in which the first or second new list is to be made, or as to the date on which the draft list should be deposited to allow of objections being disposed of before the following 31st January.

(4) The provisions contained in Part I. of the Fourth Schedule to this Act shall apply with respect to the deposit, inspection, transmission and notification of draft lists.

See Sched. IV., *post*.

Objections to draft valuation list.

26.—(1) Any person (*a*) (including the county valuation committee (*b*) and any local authority (*c*)) aggrieved (*d*) by the incorrectness or unfairness of any matter in the draft list, or by the insertion therein or omission therefrom of any matter, or by the valuation as a single hereditament of a building or a portion of a building occupied in parts, or otherwise with respect to the list, may in accordance with the provisions of this Part of this Act lodge an objection with the assessment committee at any time before the expiration of twenty-five days from the date on which the draft list was deposited (*e*).

(*a*) An owner who is rated under s. 11 (1), or who has entered into an agreement under s. 11 (2), has the same rights in respect of objections as an occupier (s. 11 (8)), and the owner of a house let out "in parts" may object to it (or some portion of it) being valued as a whole (under s. 23). It may be doubted whether other owners, whose tenants pay the rates, have any right to object. Under the Tithe Act, 1925, s. 7 (5), a Surveyor of Taxes will have certain rights of objection.

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(*b*) This committee have, of course, an interest in the list by reason of their duty to promote uniformity of valuation throughout the county: see s. 18 (3).

(*c*) See definition in s. 68. It seems to be contemplated that a local authority may have a grievance, otherwise than as owners and occupiers of property. The rating authority could not require to object to a list prepared by themselves; but a parish council in the area might perhaps be regarded as aggrieved at a list, and so in theory might any other rating authority in the union or even in the county.

(*d*) A person may object to the assessment of his own premises as being too high, or to that of another person's as being too low. With regard to "comparison" of premises, sub-ss. (1) and (2) lay down no definite rule, but it is submitted that the position is as follows:—A person may object to the assessment of his own premises (A)—which perhaps are owner-occupied—as being too high, and (without lodging any objection to the assessment of premises B) may prove that B is a comparable hereditament, and that its rental value (as evidenced by actual rent, or other facts) is less than the rental value attributed to A; and he may do this wherever B is situate—for what the evidence is worth. Further, if B is in the same assessment area as A, he may prove against the committee, and if it is in the same rating area, against the rating authority, the assessments of B in the approved list, or draft list, as being admissions by them respectively (*Pointer* v. *Norwich Union*, [1922] 2 K. B. 471; 86 J. P. 149); and, even in other cases, such evidence may perhaps in exceptional circumstances be admissible (see *ibid.*, per Atkin, L.J.). But where A and B are situate in different parts of a rating area which has been divided under s. 19 (1) (b)—A being revalued before B—he is not to make any use of the unrevised assessment of B; though, *semble*, he can still prove in other ways that its rental value is below that attributed to A.

(*e*) See Sched. IV., Part II. The notice of objection (which is to specify the grounds) is to be served on the assessment committee, whose duty it then becomes to notify certain persons (*ibid.*). As to service, see s. 59.

If an aggrieved person fails to object in time, and his objection cannot be heard under the proviso to s. 27 (1), he can make (as soon as the list is approved), under s. 37, a proposal, the decision on which will operate retrospectively.

(2) Where a rating area has been divided into parts for the purpose of a new valuation list a person shall not be deemed to be aggrieved in respect of the valuation of any hereditament in one of those parts by reason of any disparity between the valuation of that hereditament and the valuation of any hereditament situated in a part of the area the new valuation list for which is to be made in a subsequent year.

See note (*d*), *supra*.

It would defeat the object of dividing an area if the values in the new draft list for the first part could be challenged wholesale on the ground of disparity with the old values in the portion of the existing list which is to be revised (presumably) in the following year.

(3) The provisions contained in Part II. of the Fourth Schedule to this Act shall apply with respect to notices of objections.

See Sched. IV., *post*.

Revision of draft valuation list by assessment committee.

27.—(1) The assessment committee shall hold meetings (*a*) for considering any objections made to the draft list in accordance with the provisions of this Part of this Act, and on the consideration of any objection the objector, the rating authority, the county valuation

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committee, and the occupier of the hereditament to which the objection relates shall be entitled to appear and to be heard, and to examine any witness before the assessment committee and to call witnesses :

Provided that the assessment committee may at any such meeting consider any objection, although notice thereof has not been given in accordance with this Act, if the persons (*b*) to whom copies of the notice of objection are required by this Act to be given consent to the consideration of the objection.

(*a*) As to the rules regulating meetings of assessment committees, see Sched. IV., Part III. See also s. 63 and Sched. I., 13, as to questions of qualification and disqualification.

An objector, or other person authorised by the subsection to appear before the committee, may appear in person, or by an agent who need not be either counsel, solicitor, or surveyor (see *R.* v. *St. Mary Abbotts*, [1891] 1 Q. B. 378 ; 55 J. P. 502) ; " in order to make out that the right conferred by statute is to be exercised personally and not by an agent you must find something in the Act, either by way of express enactment or necessary implication, which limits the common law right of a person who is *sui juris* to appoint an agent to act on his behalf " (*ibid.*).

The county valuation committee are not entitled to a copy of the notice of objection under Sched. IV., Part II., 2 ; but under s. 40 (6) they may require to be informed of all objections to be considered by the assessment committee. If they intend to oppose an objection, they must give the notice required by s. 18 (3). See s. 41 as to the committee's power to call for a return if they think it desirable.

(*b*) These persons do not include the county valuation committee, see *supra*. If an occupier comes before the committee without having given notice, then if the rating authority's representative is present and agrees, the objection can be heard. Otherwise the objector can make a proposal under s. 37.

(2) On their revision of the draft list the assessment committee may, subject to the provisions of this Act, make such alterations, insertions and corrections in the list, whether for the purpose of meeting an objection or for any other reason as they think proper :

Provided that any person aggrieved by any alteration, insertion or correction made in the draft list by the assessment committee otherwise than in determining an objection may, in accordance with the provisions of this Part of this Act, lodge an objection with the assessment committee at any time within fourteen days after the date on which notice of the alteration, insertion or correction is served on him.

Revision of the list therefore consists in (i) hearing and determining specific objections, and (ii) general revision apart from any objection.

Where, however, the committee on their own initiative insert any property, or raise the value of any property, they must at once give notice to the occupier (or owner in certain cases) and then an objection may be lodged under the proviso to this subsection (see Sched. IV., Part III., paras. 7, 8, 9).

(3) The provisions contained in Part III. of the Fourth Schedule to this Act shall have effect with respect to the time at which meetings for considering objections are to be held, the notice of those meetings and the proceedings in connection therewith.

See Sched. IV., Part III., *post*, which makes provision as to the date for holding meetings; the notices to be given before the meetings; the procedure to be followed on the hearing of objections; and the notices to be given after the meetings. **Note to Section 27.**

28.—(1) The assessment committee shall, in any case not later than the thirty-first day of January or the thirty-first day of July (*a*), as the case may be, in the year (*b*) in which under the foregoing provisions of this Act the valuation list is to come into force, or if all objections (other than objections the hearing of which has been postponed at the request of any party thereto) have been previously heard and determined, as soon as may be after the objections have been so heard and determined, finally approve the draft list, and append to the draft list so approved a declaration of approval and certificate of compliance with this Part of this Act, signed by three members of the committee present at the meeting at which the list is so approved, and shall forthwith after approving the list cause it to be transmitted to the rating authority of the district (*c*), and send to the clerk of the peace (*d*) for every county or borough having a separate court of quarter sessions in which any part of the rating area is comprised a notification of the approval of the draft list and of the date of the approval. Final approval of valuation list.

(*a*) The list must be approved by these dates even if some objections remain unheard (see Sched. IV., Part III., 10). Under that paragraph any such objections will be dealt with as soon as possible thereafter as if they were proposals. As the decisions will have retrospective effect (s. 37 (10)), the objectors will not be prejudiced.

July 31st applies, of course, to a list to come into force in October under s. 19 (1) (a).

(*b*) See s. 19, *ante*. The list operates as from April 1st (s. 19 (2)), or in some cases, October 1st (s. 19 (1) (a)).

(*c*) The returns received from owners, etc., should be returned to the rating authority after the list has been approved (s. 40 (5)).

(*d*) This is probably required so that he may arrange sittings for the hearing of any appeals (Sched. V., Part I., 1, 4).

(2) Before approving the draft list the assessment committee shall cause such particulars with respect to totals of values as may be prescribed (*a*), both in respect of the whole rating area and also in respect of any parish or other area which is liable to be charged separately under any precept or to bear any special expenses, to be ascertained and inserted in the list.

(*a*) *I.e.* under s. 58. As to the inclusion of Crown property, see s. 64 (3).

Totals may be required for statistical purposes, and also in some cases in connection with the issue of precepts.

(3) The draft list for any rating area finally approved and sent to the rating authority as aforesaid shall, subject to any alterations made in accordance with this Part of this Act (*a*), be the valuation list for the rating area and shall come into force on such date as is provided by

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this Part of this Act (*b*), and the valuation list in force shall, unless the contrary is proved, be deemed (*c*) to have been duly made in accordance with the provisions of this Part of this Act.

(*a*) *I.e.* under ss. 30, 35, 37 (9).

(*b*) *I.e.* April 1st (or October 1st) following its approval (s. 19 (1) (a), (2)).

(*c*) Cf. also s. 44, *post*, as to "failures" or "omissions" not invalidating a list, and Sched. I., 5, 8.

(4) The rating authority on receiving the list shall deposit it at the offices of the authority.

As to inspection of the list, see s. 60, *post*.

(5) The rating authority shall give effect to any directions which may from time to time be given to them by the assessment committee in pursuance of the provisions of this Part of this Act authorising or requiring assessment committees to make corrections or alterations in valuation lists.

The rating authority and not the committee will usually have the list in their custody at the time when alterations are required to be made under ss. 30, 35, 37 (9).

Record of totals.

29. Every assessment committee shall cause to be kept a record of such particulars with respect to totals of values as may be prescribed (*a*) for every rating area in the assessment area, and for every other area (*b*) therein in the case of which total values are required to be inserted in the valuation list.

(*a*) *I.e.* under s. 58.

(*b*) *I.e.* any parish or other area mentioned in s. 28 (2).

Correction of clerical errors.

30. An assessment committee may at any time cause to be corrected any clerical or arithmetical error in a valuation list, and the valuation list shall have effect accordingly, but if the correction is made in respect of any matter other than totals, the committee shall before making the correction send notice thereof to the occupier of the hereditament affected, and to the rating authority of the rating area, and shall allow seven days to elapse for the making of any objection to the proposed correction.

It is hardly likely that any dispute will arise as to the propriety of making a correction; but, if it does, apparently the objector can appeal under s. 31 (1), *post*.

Appeals.

Appeal to quarter sessions.

31.—(1) Any person who appeared before the assessment committee on the consideration of an objection made before the committee under this Part of this Act may, if he is aggrieved by the decision of

the committee on the objection, appeal against the decision, in manner provided by this Part of this Act, to the court of quarter sessions for the county or place where the hereditament to which the objection related is situate. Section 31.

Sections 31 to 36 and Sched. V. contain the code regulating appeals under the Act to quarter sessions against a decision of an assessment committee. As to appeals against a *rate* on grounds not connected with questions of assessment (*e.g.* on the ground of illegality), see s. 14 and notes thereto.

The persons entitled to appear before the committee on the hearing of an *objection* are the objector, the rating authority, the county valuation committee, and (if he is not the objector) the occupier of the hereditament to which the objection relates (s. 27 (1)). Any one of these, therefore, may appeal against the committee's decision if he is aggrieved by it and if he in fact appeared. Presumably "appear" means "appear and be heard," and is not satisfied by merely entering the room as an interested listener.

In the case of a *proposal* under s. 37, if the person making the proposal, or a person objecting to it, or the rating authority is aggrieved by the committee's decision, he may appeal against it as if it were a decision upon an objection (s. 37 (8)). It is not quite clear whether in this case also the would-be appellant must have "appeared" before the committee.

As the Act contemplates that a rating authority or county valuation committee (s. 18 (3)) will lodge and oppose objections and appeal against decisions, it seems clear that they are to be regarded as "aggrieved" when any hereditament is assessed in the list at a figure which they consider to be incorrect—it being their duty to see that all ratepayers contribute in fair proportions to common burdens.

In the case of an appeal against *a rate* an appellant may have a choice of tribunals, see note to s. 14. Under the present section he has no choice, but must go to the quarter sessions for the county or borough (as the case may be) in which the hereditament in question is situate.

See Sched. V., *post*, as to notices of appeal and s. 59 as to service thereof.

The Act does not require any recognizance in the case of these appeals.

(2) Any person on whom a copy of a notice of an appeal to a court of quarter sessions under this Part of this Act is required to be served may, if he thinks fit, appear as respondent to the appeal (*a*):

Provided that—

(a) In any case where there is more than one respondent to an appeal, no order shall be made against the appellant for the payment of the costs of more than one of the respondents, and if costs are ordered to be paid to the appellant, the court may apportion those costs among the several respondents in such manner as the court thinks just (*b*); and

(b) Where the appellant is the county valuation committee or a local authority, the occupier of the hereditament to which the appeal relates may at any time before the hearing of the appeal instead of appearing as respondent give notice to the court that he desires to be called as a witness in the case, and if he gives such a notice shall, unless called as a witness by any party to the appeal, be called by the court as a witness, and may be cross-examined by or on behalf of any party to the appeal (*c*).

Note to Section 31.

(*a*) It seems probable (see sub-s. (6), *infra*, and s. 18 (3), *ante*) that the rules to be made under s. 34, *post*, will require persons intending to appear as respondents to give notice of their intention. It must be remembered, however, that s. 18 (3) requires a county valuation committee to give notice of their intention to oppose an appeal and of the grounds of their opposition.

(*b*) A ratepayer appellant might find both the rating authority and the county valuation committee appearing separately to contest his appeal. In such a case, if he succeeds, the court may order each of the two respondents to pay a share of his costs: if he fails, he is not to pay costs to more than one of them: presumably the court will make an Order in favour of that respondent whom it considers to have the greater interest in resisting the appeal. In practice, no doubt, two public authorities would arrange to be jointly represented.

It should be noted, that if no respondent appears to resist an appeal, a successful appellant may be given costs against the assessment committee (s. 32 (3)).

(*c*) Proviso (b) applies only where a county valuation committee or a local authority (see definition in s. 68 (1)) are the appellants. In such a case the occupier (and in certain circumstances the owner (s. 11 (8)) may, in lieu of appearing as respondent, claim to be called as a witness. By adopting this course he will avoid any danger of being ordered to pay costs, and yet will be able to put his view of the facts before the court.

(3) The provisions contained in Part I. of the Fifth Schedule to this Act shall have effect with respect to notices of appeal to quarter sessions.

Sched. V. contains provisions as to notices and entry of appeal and arbitration (*in* lieu of a hearing in court).

(4) On an appeal under this section the court shall, as it thinks just, either confirm the valuation list or alter the valuation list to give effect to the contention of the appellant so far as that contention appears to the court to be well founded.

The court can only alter the list in the direction asked for by the appellant If he claims that an assessment is too high, they cannot increase it; if he claims that it is too low, they cannot reduce it; but, of course, they need not lower or raise it as much as he asks them to do.

In the case of a hereditament in respect of which both a gross value and a net value appear in the valuation list, the difference between them will be a fixed percentage (s. 22): consequently appeals will no longer turn upon the amount to be deducted from a gross value in respect of "statutable" deductions.

(5) On the determination of an appeal under this section any party to the appeal may, if dissatisfied with the decision of the court as being erroneous in point of law, make an application in writing at any time within twenty-one days after the date of the decision to have a case stated for the opinion of the High Court on the point of law, and the court shall, unless it is of opinion that the application is frivolous, state a case accordingly:

Provided that the court may impose such conditions as it thinks fit with respect to the payment of the costs of and in connection with all or any of the stages of the case by the party by whom the application

for the case was made, having regard to the importance of the question of law involved from the point of view of the several parties to the proceedings. Section 31.

At present a court of quarter sessions need not state a special case upon a point of law unless they see fit to do so. Under this subsection, upon an application being duly made, they are required to state a case unless they consider the application to be frivolous.

A decision of quarter sessions upon conflicting evidence of fact is final and cannot be challenged in any superior court.

A special case from sessions is argued before a divisional court of the King's Bench Division, with a right of appeal to the Court of Appeal, and thence to the House of Lords. Consequently the costs may be very heavy. The proviso affords some protection to the ratepayer appellant who might well be ruined by the costs of further proceedings. The power given to the court is substantially that which a county court judge has under s. 120 of the County Courts Act, 1888. If a rating authority ask for a special case upon some point of law, on the ground, perhaps, that a question of principle is involved, the court may even make it a condition that they pay all costs of both parties in any superior court, whether they win or lose. For instances of orders in such terms, see *L. & B. Rly. Co.* v. *Watson* (1878), 3 C. P. D. 429; *Barker* v. *Phillips* (1920), 89 L. J. K. B. 51; *G. W. Rly. Co.* v. *Wills*, [1917] A. C. 148; and *Goodes* v. *Cluff* (1884), 13 Q. B. D. 694, where Lord Coleridge, C.J., pointed out that "The party who succeeds at the trial may have little interest in the question at issue; the mere value in dispute may be very insignificant, but to the appealing party a principle of vast importance may be involved."

(6) Sections twelve, thirteen and fourteen of the Quarter Sessions Act, 1849 (which relate to arbitration), shall not apply in the case of an appeal under this section, but the appellant and the persons who have given notice (*a*) of intention to appear as respondents to the appeal may agree in writing either to refer the matter in dispute, or any question or issue arising therein, to arbitration in accordance with the provisions contained in Part II. of the Fifth Schedule to this Act, or to appoint a person to value any hereditament, or any part thereof, and to accept the valuation made by that person as binding for the purposes of the appeal and to treat the costs of and incidental to the valuation as part of the costs of the appeal.

(*a*) Presumably it is intended that the rules made under s. 34 shall require persons who are served with a notice of appeal to give notice within a certain time if they intend to appear as respondents and contest the appeal; cf. s. 18 (3).

An appeal need not necessarily result in a hearing in court. As soon as it is known who are to be respondents, the parties may agree either—

(i) To state a special case for the opinion of the High Court under s. 11 of the Quarter Sessions Act, 1849: the consent of a judge is necessary;

(ii) To refer to arbitration either the whole matter in dispute or any particular question or issue. The arbitrator's award will be final on questions of fact, and the parties may agree that it shall be final also on questions of law. See Sched. V., Part II., as to the selection of an arbitrator and other matters connected with such arbitrations;

(iii) To appoint a valuer to make a binding valuation of any hereditament or any part thereof.

See the next subsection as to further proceedings in such cases.

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(7) Any award of an arbitrator and any judgment of a superior court with respect to an appeal under this Part of this Act (whether upon a case stated by a court of quarter sessions or by the parties (*a*) or by an arbitrator, or upon an application for a writ of certiorari or otherwise) may be enrolled (*b*) at quarter sessions upon the application of any party interested therein, and thereupon quarter sessions shall cause such order to be issued as may be necessary to give effect thereto.

(*a*) *I.e.* under s. 11 of the Quarter Sessions Act, 1849.

(*b*) Every notice of appeal is sent to the clerk of the court, and the appeal thus gets "entered." This subsection will enable quarter sessions to know what is happening in regard to appeals which have been entered but have not come before the court at all, or have passed on to a superior court.

An award or a judgment can be enrolled on the application of any party interested, and it then becomes the duty of sessions to issue any order necessary to give effect to it; see sub-s. (10) as to alterations in a valuation list.

Operative effect cannot be given to a valuation (under sub-s. (6)) by enrolment, even though the parties have agreed to accept it as binding for the purposes of the appeal. The rules will probably provide for some form of "motion for judgment" by consent.

(8) A writ of certiorari for questioning any decision of a court of quarter sessions on an appeal under this Act shall be sued out within three months after the decision is given.

The present time limit is six months.

(9) Any officer of an assessment committee, rating authority, or county valuation committee, acting under any special or general resolution of the committee or authority, may authorise the institution carrying on or defence of any proceedings in relation to the valuation list which the committee or authority are themselves authorised to institute, carry on or defend.

See further as to authentication of documents, service of notices, etc., s. 59 (3), *post*.

(10) Where the decision on an appeal under this section or any award of an arbitrator or judgment of a superior court which has been enrolled at quarter sessions involves an alteration of the valuation list, the clerk of the court shall send to the county valuation committee and the assessment committee a statement in writing signed by him setting out the decision of the court or the award or judgment, as the case may be, and specifying the alteration to be made in the list.

The assessment committee, if the list is not at the time in their hands, will, thereupon, direct the rating authority to make the necessary alteration (s. 28 (5)).

(11) A justice of the peace shall not (*a*) be disqualified for taking part in the determination of an appeal under this Part of this Act by reason of the fact that he is a ratepayer in any rating area within the county (not being the rating area in which the hereditament to which the

appeal relates is situate), or by reason that he is a member of any authority (not being an authority which is a party to the appeal) which joins in the appointment of the assessment committee or pays part of the expenses thereof, but no justice who is a member of any local authority shall be qualified to take part in the determination of an appeal under this Part of this Act if the appeal relates to any hereditament which is the property or in the occupation of the authority (*b*). Section 31.

(*a*) The subsection seems clearly to imply that a justice who is a ratepayer in the *same* rating area is disqualified. At common law the most remote and infinitesimal financial interest in the subject matter of an appeal would disqualify a justice; but the Justices Jurisdiction Act, 1742, authorised a justice to act generally in regard to (*inter alia*) parochial rates, subject to the proviso that he was not to act at quarter sessions upon the determination of any appeal concerning the "parish, township or *place*" where he was a ratepayer. If the section is to be construed as applying to the new general rates, presumably the word "place" in its proviso can be read as applicable to the borough or district, which replace the parish or township as the normal "rating area."

(*b*) Apart from this express provision a member of an authority which was a party to the appeal would be disqualified at common law.

32.—(1) The powers and duties of a court of quarter sessions with respect to appeals under this Act shall, in the case of quarter sessions for a county, be delegated to and be performed by a committee of the justices of the county appointed by quarter sessions, and sittings of the committee shall be held at one or more places, as the committee think proper, having regard to the convenience of parties to appeals. Procedure on appeals.

The object of thus entrusting the hearing of appeals to a statutory committee, of from five to seven members (see sub-s. (4)), is no doubt to secure greater uniformity in decisions than results as a rule when appeals are heard by a bench the personnel of which varies considerably from day to day.

As has been pointed out on p. 42, *ante*, the existing right of appeal (on questions of value) to special sessions is abolished by the Act; and, to make up for the loss of what has been spoken of as the "poor man's" tribunal, the committee of quarter sessions are empowered to hold local sittings, and (see sub-s. (8), *infra*) a right of audience before them is given to solicitors, if the rateable value of the hereditament does not exceed £100.

As a tribunal of appeal, special sessions have certain drawbacks; for instance, an appeal lies to quarter sessions, and therefore an appellant, instead of getting a cheap decision, may find himself saddled with the costs of a double appeal: moreover, the same uniformity in decisions cannot be expected from a number of petty sessional benches as from a single tribunal specially selected for the whole county.

(2) A committee appointed by quarter sessions under this section shall be deemed to be a standing committee of quarter sessions for the period for which they are appointed, or if no period is fixed until their successors are appointed, and their jurisdiction shall not be affected by the termination of the sessions at which they were appointed and may be exercised at any date and continuously, whether the court of quarter sessions is, or is not, for other purposes in session.

The committee will thus be able to hold more or less regular sittings according to the amount of work waiting for them.

Section 32.

(3) Subject to the provisions of this Act and any rules (*a*) made thereunder a committee appointed under this section shall for the performance of the duties delegated to them have all the same powers as regards costs and other matters under the Quarter Sessions Act, 1849, or otherwise as if they were the court of quarter sessions; and for the purpose of the provisions of the said Act relating to costs the assessment committee shall, if no other person appears as respondent to the appeal, be deemed to be a respondent to the appeal, whether they appear on the hearing of the appeal or not (*b*).

(*a*) See s. 34, *post*.

(*b*) It has hitherto been a grievance that if an assessment committee did not see fit to appear at quarter sessions to support their decision, or if they appeared without obtaining the consent of the guardians, the appellant even though successful could not get an order for costs against them, though he might perhaps get an order against the overseers of the parish or the parish council; cf. *West Ham Union* v. *Essex JJ.*, [1896] A. C. 443; *R.* v. *London JJ.* (1907), 71 J. P. 322; *R.* v. *Notts JJ.* (1909), 73 J. P. 183.

The subsection gets rid of this grievance by providing that, if no one else appears to resist an appeal, an Order for costs may be made against the assessment committee, whether they actually appear or not.

(4) The mode of appointment of a committee under this section, the number and, subject to the provisions of this Act, the procedure of the committee shall be determined by quarter sessions, provided that—

(a) the chairman of the committee shall be appointed annually by quarter sessions, who in making the appointment shall have regard to judicial or other legal experience, and

(b) not less than five and not more than seven members shall take part in the determination of any appeal.

See sub-s. (2) as to the period for which the committee are to hold office. It is not clear whether the chairman is necessarily to vacate his membership every year (if the committee are appointed for a term of years) or merely his chairmanship.

(5) In the determination of any appeal the chairman or acting chairman of the committee shall have a second or casting vote.

A casting vote is "a creature of statute."

(6) Where quarter sessions have customarily been held separately by adjournment or otherwise for any part of a county, a Secretary of State may by order, on the application of the justices sitting at each such separate sessions, for the purposes of appeals under this Act constitute any part of the county for which quarter sessions are for the time being so separately held a separate county, and the justices usually sitting at those separate quarter sessions a separate quarter sessions, and make all necessary provisions for the hearing of appeals in such a case.

This subsection follows substantially s. 5 (2) of the Licensing Act, 1910.

Note to Section 32.

In Lancashire there is only one commission of the peace; but, in practice, the justices divide themselves into four divisions for four different areas. They are for all practical purposes distinct benches—two of them having paid chairmen (under local Acts). The subsection will enable each division to have its own committee for the purposes of this Act, as it has for purposes of licensing. Certain other counties, *e.g.* Kent and Sussex, have somewhat similar arrangements. In Yorkshire each Riding has a separate commission.

(7) The powers and duties of quarter sessions with respect to appeals under this Act shall, in the case of quarter sessions for a borough having a separate court of quarter sessions, be exercised by the Recorder as sole judge of the court, and may be so exercised at any date and continuously, whether the court of quarter sessions is, or is not, for other purposes in session.

The Recorder, therefore, like the statutory committee in a county, can sit at any time of the year when there is work for him to do.

(8) On the hearing of an appeal by a committee of quarter sessions under this section, any party to the appeal may, if the rateable value of the hereditament to which the appeal relates, as appearing in the valuation list, does not exceed one hundred pounds, appear by solicitor instead of in person or by counsel.

It will be noted that this subsection does not apply to borough quarter sessions, but it will be open to any Recorder to make for his court a rule on the same or similar lines.

Any court of quarter sessions has power to make a rule of practice giving or refusing a right of audience before it to solicitors; and in some boroughs, at any rate, solicitors have at present a general right of audience. See 77 J. P. 353, for an unsuccessful application to a Recorder for the privilege in his court to be restricted to barristers. In 1845 the Denbighshire sessions cancelled their existing rule, and decided that barristers alone should have audience "at all times when four barristers are present," and the court unanimously upheld the new rule (R. *v.* Denbighshire JJ., *ex parte* Evans (1846), 15 L. J. Q. B. 335; 9 Q. B. 279). The wording of the particular rule is, however, scarcely appropriate except to the regular quarterly sittings of a court for general business when barristers may be expected to attend on the chance of finding work to be distributed.

Appointment by court of person to value hereditaments.

33.—If any party to an appeal to a court of quarter sessions under this Act makes an application to the court, either before the hearing of the appeal or at any time during the hearing before evidence as to value has been adduced (*a*), to direct a valuation of any hereditaments in relation to which the appeal is made, the court in their discretion may appoint a proper person to make the valuation, and the person so appointed shall have power to enter on, survey and value the hereditaments in respect of which the direction is given:

Provided that—

(a) the costs of the valuation shall be deemed to be costs of the appeal but shall be payable in the first instance by the applicant, and except where the application is made by the council of a county, a county valuation committee, a rating authority, an assessment committee or a board of

Section 33.

guardians, the court shall not make any order on the application unless the applicant gives such security as the court think proper to pay the costs of the valuation; and

(b) The court may, and on the application of any party to the appeal shall, call as a witness the person so appointed, and, if he is so called, any party to the appeal shall be entitled to cross-examine him.

(*a*) The intention of this restriction is probably that a party who finds the evidence going against him shall not be able to try another string to his bow by asking the court to send an independent valuer to value the property in question.

The section gives no clear indication of the weight to be attached by the court to the valuer's report; but it is clearly not intended to be accepted as conclusive, for provision is made for his cross-examination. There would seem to be a danger of a court abdicating its responsibility for deciding disputed questions of fact, and inflicting hardship on litigants, if it were to adopt a practice of acceding almost as a matter of course to applications under this section—at any rate, if the same person was frequently appointed. On the other hand, the power given by the subsection, if used with discretion, might lead to a considerable saving of expense in the way of fees to expert witnesses.

Power to make rules with respect to appeals.

34. The Secretary of State may make rules generally with respect to the practice and procedure to be followed on and in connection with appeals under this Part of this Act, and in particular, without prejudice to the generality of the foregoing description, may by those rules—

(a) prescribe scales of costs:

(b) prescribe fees to be charged in connection with appeals and arbitration:

(c) provide for the exercise by the clerk of the peace in the case of any preliminary proceedings of any of the powers of the court of quarter sessions:

(d) provide for the appointment of a person to act in lieu of the clerk of the peace in any case where the clerk of the peace is also an officer of any authority or committee which is a party to an appeal, and for the assignment to a person so appointed of remuneration, to be paid out of the county fund or the general rate fund of the borough, as the case may be, on such scale as may be specified in the rules:

(e) prescribe the forms to be used in connection with appeals and arbitration.

The County of London Quarter Sessions have had for many years a set of rules, approved by the Home Secretary, for regulating the practice and procedure upon assessment appeals. These rules, which were revised in 1921 and are generally considered to work well, may be found in Ryde on Rating. It seems to be contemplated that the Home Secretary should make a set of rules applicable to all courts of quarter sessions outside London; and in this case it may be expected that they will follow more or less closely the London rules.

(b) The provisions as to fixing scales of costs and of fees suggest an intention to reduce as far as possible the expense of assessment appeals.

(d) In many quarter sessions boroughs the clerk of the peace and his deputy are also the town clerk and deputy town clerk respectively; and in most counties the clerk of the peace is also clerk to the county council. In the past this has not caused any difficulty in connection with rating appeals, for neither borough councils nor county councils have been parties to such appeals, unless they may have appealed in their capacity as ratepayers. In future, borough councils will frequently be parties in their capacity of rating authority. A town clerk may also be clerk to his borough assessment committee, and a county council's clerk may also be clerk to the county valuation committee. It is obvious that a clerk of the peace should not (even if not legally disqualified) act as legal adviser to his court when one of the parties to the appeal is an authority or committee whose chief officer he is.

Note to Section 34.

35. The assessment committee shall cause such alterations to be made in the valuation list as are specified in any statement sent to the committee under the foregoing provisions of this Act with respect to a decision, award or judgment given on an appeal under this Act, and shall also cause such alteration of totals to be made as is consequential on any such alteration made under this section.

Alteration of list in consequence of decisions on appeal.

The list will usually be in the custody of the rating authority at the time when appeals are heard, and the assessment committee will direct that authority to make the necessary alterations under s. 28 (5).

36.—(1) Any rate in respect of which the valuation list is conclusive shall be made and levied in accordance with the valuation list in force for the time being, and shall be collected and be recoverable, notwithstanding any appeal which may be pending with respect to that list:

Rate to be levied notwithstanding appeal.

Provided that where in the case of any hereditament the value questioned by the appeal exceeds the value of that hereditament as last previously determined under this Part of this Act, the amount recoverable pending the decision of the appeal shall not, unless the hereditament has been substantially altered since its value was last previously determined, exceed the amount which would have been recoverable if its value had not been so increased.

(2) Where in pursuance of the last preceding section of this Act there is made in the valuation list an alteration which affects the amount of any rate levied in respect of any hereditament in accordance with the list, the difference, if too much has been paid, shall be repaid or allowed, or, if too little has been paid, shall be paid and may be recovered as if it were arrears of the rate.

This section reproduces substantially the provisions of s. 2 of the Poor Rate Act, 1801.

It will be noted that the proviso to sub-s. (1) only applies where the value has been previously ascertained *under this Act*. In the case of appeals ensuing upon the first new list, the rate must be paid in full—subject, of course, to subsequent adjustment under sub-s. (2). Even when a value has been ascertained under this Act, the proviso does not apply if there has been substantial alteration of the hereditament; *e.g.* if a factory is rebuilt, then, notwithstanding an appeal in respect of a new assessment, the rate must be paid in full subject to adjustment.

Note to Section 36.

The adjustment must be made in respect of *any* rate levied on the valuation list affected by the appeal between approval of the list and decision of the appeal; a separate appeal in respect of each rate made before the final decision is given will no longer be necessary. See s. 37 (10) as to the retrospective effect of an appeal in the case of a "proposal."

Revision of Current Lists.

Amendment of current valuation list.

37.—(1) Any person (*a*) (including the county valuation committee and any local authority) who is aggrieved (*b*) by the incorrectness or unfairness of any matter in the valuation list for the time being in force, or by the inclusion therein or omission therefrom of any matter, or by the valuation as a single hereditament of a building or a portion of a building occupied in parts, or otherwise with respect to the list, may make in manner provided by this section a proposal for the amendment of the list (in this section referred to as "a proposal"), and where (*c*) a rating authority in pursuance of the provisions of this Act make any amendment in a rate other than the correction of a clerical or arithmetical error, or the correction of an erroneous insertion, omission, or misdescription, the authority shall forthwith make a proposal for any necessary amendment of the list.

This section substantially reproduces—under the name of "proposal for amendment" of the current valuation list—the right of objection at any time against the list given by s. 1 of the Union Assessment Committee Act, 1864. Under this Act the term "objection" is confined to the period between deposit and approval of the list; objections after approval are called proposals, and are dealt with under this section. So, too, any objection on deposit which is not decided before actual approval is disposed of under this section, as if it were a proposal made immediately after approval (Sched. IV., Part III., 10).

(*a*) It will be seen by a comparison with s. 26 that the right of thus making a proposal at any time during the currency of a list is given to the same persons as those to whom a right to object upon deposit is given: see notes thereto.

(*b*) See notes to s. 26. The grievances which may form the subject of a proposal are the same as may form the subject of an objection upon deposit.

An aggrieved person whose proposal is rejected will not be debarred from renewing it during the quinquennium: cf. *Veasey* v. *Beardsley & Co.* (1925), 23 L. G. R. 118.

(*c*) There are certain cases enumerated in s. 5 (1) (c) in which, after a rate has been made in conformity with the valuation list, the rating authority may alter the rate, *i.e.* by inserting therein some new hereditament which was empty when the rate was made, but has since become occupied; by altering names upon a change of occupation, or by splitting between two or more occupiers a property previously occupied as a whole, which has since been divided. In such cases the authority must at once make a proposal for any necessary amendment to be made in the list, so that it and the rate may agree. If the assessment committee decide in favour of the proposal, the rate stands as amended—subject to any appeal against the decision under sub-s. (8); if they decide against it—*e.g.* if the rating authority have inserted in the rate £40 as the rateable value of a new house, and the committee decide that the proper value is £35, the rate must be corrected accordingly—sub-s. (10). If the rating authority fail to make a proposal promptly, the ratepayer could apparently challenge the rate or resist payment on the ground that it was not in accordance with the list.

(2) Every proposal made under this section must—

(a) be made in writing and, except where it is made by the rating authority, be served on the rating authority;

(b) specify the grounds on which the proposed amendment is supported. Section 37.

The proposal, made in writing and specifying the grounds, is to be served on the rating authority, whose duty it then becomes to serve a copy of it on the occupier (or owner), unless, of course, he is the person making the proposal. Similarly, if the rating authority themselves make the proposal, they serve a copy on the occupier (or owner)—see sub-s. (3).

As to service of notices, see s. 59.

(3) The rating authority shall, within seven days after the date on which the proposal is made by or served on them, transmit a copy thereof, in the case of a proposal made otherwise than by the occupier of the hereditament to which it relates, to the occupier, or, where there is no occupier, to the owner thereof, and shall not less than twenty-one days before the date of the meeting at which the proposal will be considered by the assessment committee, transmit to him a notice of the date on which the meeting aforesaid will be held and a short statement of the effect of the next following subsection of this section.

The copies are to be served within seven days.

Subsequently, when the assessment committee have fixed a day for the hearing, the rating authority must give to the same person notice of the date, and must inform him that if he intends to oppose the proposal he must notify his intention in accordance with sub-s. (4).

The section does not require notice to be given to the county valuation committee, but under s. 40 (6) they may require to be kept informed as to pending proposals.

(4) Any person to whom a copy of a proposal is transmitted as aforesaid may, if he thinks fit, give to the rating authority notice in writing of objection to the proposal, and unless he gives such notice he shall not be entitled to be heard at the meeting in opposition to the proposal.

Any such notice as aforesaid must be given not less than seven days before the date on which the meeting for considering the proposal is to be held and must state the grounds of the objection.

The recipient of a notice fixing the date of a hearing has therefore at least fourteen days in which to decide whether to give this counter notice.

The effect of sub-s. (7) and s. 27 (1) seems to be to give to the county valuation committee a right to oppose a proposal. If they intend to do so, it would be wise, if not clearly necessary, for them to give notice under s. 18 (3) (proviso).

(5) The rating authority shall forthwith transmit to the person by whom a proposal is made a copy of any notice of objection thereto which has been received by them, and if they themselves intend to object to the proposal shall forthwith give to that person notice of their intention and of the grounds of the objection.

This will enable the maker of the proposal to know beforehand whether there is to be opposition.

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(6) The rating authority shall from time to time and at such times as the assessment committee may direct furnish to the assessment committee returns and other particulars with respect to all proposals and any notices of objection thereto given to the rating authority.

This will enable the assessment committee to fix a meeting when sufficient business has accumulated: and see sub-s. (11).

The committee, if they think fit, may themselves call for a return under s. 41.

(7) The assessment committee shall hear and determine any proposal as if it were an objection to a draft list, and all the foregoing provisions of this Part of this Act relating to the hearing and determining of such an objection shall apply accordingly.

The provisions of s. 27 and Sched. IV., Part III., will therefore apply so far as applicable: under the latter it will be for the committee to notify the date of hearing to the person making the proposal (para. 2).

(8) If the person (*a*) by whom any proposal is made under this section, or a person who objects to any such proposal, or the rating authority is aggrieved by the decision of the assessment committee thereon that person, or authority, as the case may be, may within twenty-one days after the date of the decision appeal (*b*) against the decision in the same manner as if the decision were a decision of the committee on an objection to a draft list, and subject to the express provisions of this section (*c*) all the provisions of this Part of this Act with respect to appeals against such a decision shall apply accordingly.

(*a*) Apparently the county valuation committee may object—see s. 27 (1), and sub-s. (7) of this section.

Having regard to the language of s. 31, it is probable that the right of appeal depends upon the aggrieved person having "appeared before" the committee.

(*b*) As to the appeal provisions, see ss. 31 *et seq.*, *ante*.

(*c*) Twenty-one days from the date of decision takes the place, of course, of the twenty-one days from approval of the list in Sched. V., Part I., 1.

(9) The assessment committee shall as soon as may be after any proposal made under this section has been disposed of by them, cause the proper alterations in or additions to the valuation list to be made (including any consequential alterations to totals), and shall give notice of the alterations and additions to the occupier or, where there is no occupier, to the owner of the hereditament affected.

If the list is not in the room at the time they will direct the rating authority to make the necessary alterations, see s. 28 (5).

(10) Subject as hereinafter provided (*a*), an amendment made in the valuation list in pursuance of this section shall, in relation to any rate current at the date when the proposal in pursuance of which the amendment was made was served on the rating authority, or, where notice of the proposal was given to the occupier or owner, as the case may be, of the hereditament affected, current at the date when the notice was

so given, be deemed to have had effect as from the commencement of the period in respect of which the rate was made, and shall, subject to the provisions of this section (*b*), have effect for the purposes of any subsequent rate, and the provisions of subsection (2) of the last preceding section of this Act shall have effect accordingly (*c*).

Provided (*d*) that, in the case of an amendment consisting of the inclusion in the valuation list either of a newly-erected or newly-constructed hereditament or an altered hereditament which has been out of occupation on account of structural alterations, or of the alteration in the valuation list of the value of any hereditament, where the value thereof has been affected by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause, the amendment shall have effect only as from the date when the new or altered hereditament comes into occupation, or as from the happening of the event giving rise to the alteration of the value of the hereditament, as the case may be, or in a case where tithe, tithe commutation rentcharge or other payment in lieu of tithe is extinguished in whole or in part, as from the date on which the extinction takes effect.

(*a*) Except as mentioned below—the alteration operates (retrospectively) upon the rate current when the proposal was made, and upon any rate made subsequently, and if the decision upon the proposal is appealed against, the decision on appeal will operate on the rate current when the proposal was made, and on any subsequent rate; and refunds or additional payments will be made accordingly. The old rule of "one rate: one objection: one appeal:" is therefore abrogated; it will no longer be necessary to make another proposal as each new rate is made, and to serve another notice of appeal in respect of each proposal.

As the decision on a proposal normally operates retrospectively, a man who for any reason does not object when a new list is on deposit, is really in just as good a position if he makes a proposal during the currency of the first rate made after approval of the list.

(*b*) "Subject to . . ." The amendment—whether made by the committee or on appeal—is to govern subsequent rates unless or until the list is formally altered in consequence of a later proposal.

(*c*) This makes it clear that a decision on appeal is in the case of a proposal to date back to the date indicated in this subsection (or its proviso) and not to the coming into force of the list, as in the case of an objection on deposit.

(*d*) Obviously in the cases mentioned it would be inequitable to make the alteration operate as from a date earlier than the happening of the event in question. If a house is reduced in value by a fire on the 1st of August, the occupier should pay on the original higher value from the 1st of April to the 1st of August; if he increases its value by additions completed on the 1st of August, he should similarly pay on the original lower value up to that date.

(11) Every assessment committee shall hold such meetings as are in the opinion of the committee reasonably required for the prompt disposal of proposals made under this section with respect to the valuation lists of their area, and the meetings so to be held shall be held on such dates as may be fixed by the committee after consultation with the rating authorities in their area.

As to notifying the dates fixed to persons concerned, see sub-s. (3), *ante*, and note to sub-s. (7).

Section 38.

Appointment of Valuers, &c.

Power of authorities to employ valuers.

38.—(1) Any rating authority, assessment committee, or county valuation committee, may, if they think fit, employ a competent person to give advice or assistance in connection with the valuation of any hereditaments in their area, and any person so employed shall have power, at all reasonable times and after giving due notice and on production, if so required, of authorisation in writing in that behalf from the rating authority or committee authenticated by the signature of their clerk, to enter on, survey and value any hereditament in the area of the authority or committee which the authority or committee may direct him to survey and value.

(2) If any person wilfully delays or obstructs any person in the exercise of any of his powers under this section he shall be liable on summary conviction to a fine not exceeding five pounds.

Existing powers of employing valuers are to be found in the following sections, which are repealed by Sched. VIII.—Poor Law Amendment Act, 1848, s. 7, under which guardians may, if requested by the overseers of any parish or a ratepayer therein, cause a valuation to be made of any property in the parish at the expense of the parish or applicant; Union Assessment Committee Act, 1862, s. 16, under which an assessment committee may, with the consent of the guardians, appoint a person to make a valuation list for any parish in lieu of the overseers, and s. 20, under which the committee may with the like consent employ a person to value any hereditaments; Poor Law Amendment Act, 1868, s. 32, under which guardians may appoint a valuer to assist the assessment committee; County Rates Act, 1852, s. 9, under which a county rate basis committee may appoint persons to make valuations.

The present position with regard to right of entry is unsatisfactory. Assessment committees and valuers appointed by them or by guardians have apparently no right to demand admission to premises. Overseers have a right of entry under s. 4 of the Parochial Assessments Act, 1836, but only if the making of a new valuation list is ordered under *ibid.* s. 3, which in practice is never done. Borough councils have, for the purpose of making a separate rate, certain powers under the Municipal Corporations Act, 1882, s. 144 (8).

For the general power to employ officers, see s. 55.

Powers of High Court in case of default by Rating Authority, Assessment Committee, &c.

Power of High Court to appoint person to act in place of defaulting authority.

39.—(1) If at any time it is shown to the satisfaction of the High Court, on an application made by the Minister, or the council of any county or county borough concerned, that there is reason to apprehend that by reason of default made by any authority, committee or person in complying with any of the provisions of this Part of this Act a valuation list for any area will not be duly prepared in accordance with those provisions so as to come into force on the proper date, the court may appoint such person as they think fit to make and approve the list for the said area or to do any such things as ought to have been done by the authority, committee or person in default.

(2) All costs properly incurred by a person appointed by the High Court under this section shall be paid by the authority, committee or

person in default, and in case of dispute the amount payable as costs under this subsection shall be taxed in such manner as the High Court may direct. Section 39.

Information and Returns.

Powers of rating authority to require returns.

40.—(1) In every case where a new valuation list is to be made under this Part of this Act for any rating area the rating authority shall (*a*) serve notice on the occupier, owner or lessee of every hereditament in the area, or on any one or more of them, requiring him or them to make a return containing such particulars as may be reasonably required for the purpose of carrying out this Act.

The said notices shall be served not later than such date as will allow a sufficient interval for completing, in accordance with the provisions of this Part of this Act (*b*), the various stages in the preparation of the valuation list.

In London, when a new quinquennial list is to be prepared, the overseers call for returns under s. 55 of the Valuation (Metropolis) Act, 1869. Outside London, except under certain local Acts, such returns cannot be required.

The present Act contemplates returns being called for in three cases:

(i) by the rating authority when a new list is to be prepared (sub-s. (1));

(ii) by the rating authority when a proposal is made, and when they contemplate making a proposal, in respect of some particular property (sub-s. (2)); and

(iii) by the assessment committee if they want information as to some particular property (s. 41).

Such returns cannot be inspected by the public under s. 60, *post*.

(*a*) It is their duty to require *one* return in respect of every hereditament, and they may, if they think fit, require more.

Presumably a form of return will be prescribed under s. 58, *post*.

(*b*) No detailed time-table for the various stages in the preparation of the list is set out in the Act—as is done in s. 42 of the Valuation (Metropolis) Act, 1869; but the draft list is to be approved not later than 31st January (or 31st July), see s. 28 (1); and, as far as possible, objections should be decided before that date.

(2) The rating authority may at any time in connection with a proposal which has been made for the amendment of the valuation list, or with a view to the making of such a proposal, serve notice on the occupier, owner or lessee of any hereditament in the area or on any one or more of them requiring him or them to make a return.

This section contemplates that when a proposal is made the authority may wish to have a return as to that particular hereditament in order to see whether the proposal is justified or should be opposed; or that they may wish for a return if they doubt the correctness of the value appearing in the list in respect of any hereditament.

(3) Every person on whom a notice to make a return is served in pursuance of the provisions of this section shall within twenty-one days

Section 40.

after the date of the service of the notice make a return in such form as is required by the notice, and deliver it in manner so required to the rating authority.

See s. 42 for the penalty for failing to make a return, or for making an untrue return.

(4) The rating authority shall cause all returns delivered to the authority in pursuance of the last preceding subsection to be transmitted to the assessment committee.

In the case of returns under sub-s. (1) the committee will need them before they begin to revise the draft list; a return under sub-s. (2) will be required before the proposal (if any) is considered.

(5) Any returns received under this section shall, after the relative lists are finally approved, or after the proposals for amendment have been disposed of, as the case may be, be sent by the assessment committee to the rating authority.

The rating authority can then file the returns for comparison, if necessary, with future returns.

(6) Every assessment committee and every rating authority shall furnish to the county valuation committee all information which the county valuation committee may require for the due discharge of their functions under this Part of this Act and which it is in the power of the assessment committee or the rating authority to furnish.

The Act does not specify what notices or information are to be sent to the county valuation committee. It is left to that committee's discretion to ask—either specially or generally—for what they deem to be useful.

Power of assessment committee to require returns.

41. If the assessment committee at any time (*a*) desire any person who is the owner, lessee or occupier of any hereditament wholly or partly (*b*) within the assessment area to make a return with respect to any of the matters (*c*) with respect to which a return may be required under the last preceding section, they may serve a notice on that person requiring the return, and that person shall, within twenty-one days after service of the notice, send the required return to the assessment committee (*d*).

(*a*) The assessment committee may think when revising a list that the owner should be required to make a return in some cases where only the occupier has been required to do so; or on a proposal, if the rating authority have not called for any return, the committee may think it desirable to have one.

(*b*) The language is rather wider than that of s. 40 (1). If this is intentional, the object probably is to enable the assessment committee to get a full return from, *e.g.*, a gas company operating in several areas.

(*c*) *I.e.* "such particulars as may reasonably be required for the purpose of carrying out this Act." (s. 40 (1)).

(*d*) Nothing is said as to the custody of returns called for under this section—cf. s. 40 (5). It will, however, probably be found convenient for *all* returns to be deposited and filed in the same place.

Section 42.

Penalties for failure to make returns, and for making false returns.

42.—(1) If any person on whom notice has been served under any of the provisions of the two sections of this Act last preceding fails without reasonable excuse to comply with the notice, he shall, on summary conviction, be liable in respect of each offence to a fine not exceeding twenty pounds, and to a further penalty not exceeding forty shillings for each day during which the default continues after conviction.

(2) If any person wilfully makes or causes to be made a return under either of the two sections of this Act last preceding which is false in any material particular, he shall, without prejudice to any liability to be proceeded against under any other enactment, be liable on summary conviction in respect of each offence to a fine not exceeding fifty pounds.

If the case appears to be too flagrant for summary proceedings, it can be dealt with on indictment under s. 5 of the Perjury Act, 1911, but an offender cannot be punished twice for the same offence (Interpretation Act, 1889, s. 33).

Miscellaneous.

Evidence of lists, and furnishing of copies of lists and tax assessments.

43.—(1) A valuation list as for the time being in force, or an extract from any such list, may be proved by the production of a copy of the list, or of the extract, purporting to be certified by the clerk of the rating authority to be a true copy or extract, and the certificate shall state that all alterations required to be made (*a*) in pursuance of the provisions of this Part of this Act in the list, or in the part of the list extracted, have been correctly made in the copy or extract so produced.

It will be noted that no duty is imposed upon the clerk to supply a certified copy, nor is he authorised to charge any fee. It was probably considered that he would be glad to supply the copy gratis in preference to having to waste time in attending a court with the original list.

The subsection applies only to current lists; if for any reason it is desired to prove some entry in an old list, presumably the original must be produced.

As to evidence of a rate, see Poor Rate Assessment and Collection Act, 1869, s. 18.

(*a*) *I.e.* any made under ss. 30, 35, 37.

(2) Any rating authority on application by a surveyor of taxes shall furnish to him a copy of their valuation list as for the time being in force, or of any rate for the time being in force, or any extract from the rate or list, on payment of a sum not exceeding the rate of five shillings for every hundred entries numbered separately, and the clerk of the rating authority shall, if required, certify the copy or extract in accordance with this section.

Under s. 114 of the Income Tax Act, 1918, revenue officers may, without payment of any fee, inspect, and *take* copies or extracts from, any book kept by a parish officer, or other person, of or concerning poor rates, or any other public taxes, rates, or assessments. In practice, it is understood, the officer has usually arranged with the custodian of the book to supply any copy or extract required upon payment of an agreed charge; and this more convenient course is now definitely sanctioned, and a maximum rate of payment fixed.

Note to Section 43.

Section 114 (*supra*) also enables general commissioners of income tax to require the custodian of the books to attend and produce them.

It will be noticed that the present subsection applies to valuation lists as well as to rate-books.

(3) Any county valuation committee, assessment committee, or rating authority may from time to time require the surveyors of taxes for their area to furnish to them (subject to payment therefor of a sum calculated at the rate aforesaid) a copy of the annual values for the time being in force for the purpose of income tax under Schedule A of the Income Tax Act, 1918, for all or any of the properties in that area :

8 & 9 Geo. 5, c. 40.

Provided that nothing in the foregoing provision shall extend to annual values which by law are not allowed to be made public.

This subsection takes the place of two existing provisions, which are repealed by Sched. VIII.

(i) Under s. 7 of the County Rates Act, 1852, the county rate basis committee may from time to time cause copies of the total amount assessed in each parish, township, or place in respect of any taxes, and the total amount of the valuation of the property on which such assessments were made in any year then elapsed to be made out by the clerk to the commissioners of taxes ;

(ii) Under s. 13 of the Union Assessment Committee Act, 1862, an assessment committee may require revenue officials to make returns as to taxes or valuations, or any property included therein, and may require copies to be supplied ; they may also require the officials to attend and produce the books, and to be examined ; " provided always, that nothing herein contained shall authorise the production of valuations or assessments which by any provision of law at present are not suffered to be made public."

By s. 212 of the Income Tax Act, 1918, " No provision contained in the County Rates Act, 1852, or in the Union Assessment Committee Act, 1862, shall authorise any assessment committee under those Acts to require any assessor, collector, or other person employed in the assessment or collection of tax to make or transmit, or to permit any other person to make, copies of or extracts from any assessment, rate, or rate-book or any document relating to the assessment or collection of tax upon profits of trade in respect of quarries, mines, ironworks, gasworks, or other concerns in the nature of trade or manufacture chargeable under Sched. A, nor shall any such person be required to attend before any such committee to produce any such assessment, rate, rate-book, or document, or to be examined concerning the same."

The effect of the present subsection, coupled with s. 212 of the Act of 1918, is that information can be obtained as to the " annual values " or " valuations " upon which income tax under Sched. A is charged, but not as to any confidential information (*e.g.* as to profits of trade, allowances, and encumbrances) supplied by the taxpayer in connection with his assessment or claims for a rebate.

Valuation list not to be rendered invalid by certain failures or omissions.

44. Any failure on the part of a rating authority or assessment committee to complete any proceedings with respect to the preparation of a valuation list within the time required by this Part of this Act (*a*), or the omission from a valuation list of any matters required by this Part of this Act to be included therein, shall not of itself (*b*) render the list invalid.

(*a*) A list, therefore, which is not finally approved till some date after 31st January (s. 28 (1)) will not necessarily be invalidated.

(*b*) Although it is difficult to say precisely what the effect of these words is, there will presumably be little chance of challenging successfully the validity of a list on the ground of "failure" or "omission"; cf. also s. 28 (3), Sched. I., 5, 8. **Note to Section 44.**

45. Any occupier or ratepayer may include in the same objection, appeal or other proceeding under this Part of this Act all or any hereditaments of which he is or is deemed to be the occupier or ratepayer which are comprised in the same valuation list, although they are separately assessed in that list. Inclusion in one proceeding of separate hereditaments.

"*Ratepayer*" includes an owner liable to pay the rates (s. 68).

The section may lead to a certain saving of expense in the way of fees, etc., upon appeals.

46. Any notice required to be published under this Part of this Act by an assessment committee or rating authority shall be published by affixing it in some public or conspicuous place or situation in the area affected and by publishing it in one or more newspapers circulating in the area of the committee or authority. Publication of notices.

Apparently the only notice required to be published under this Part of this Act is the notice of a draft list having been deposited (Sched. IV., Part I., 2).

47.—(1) Any assessment committee shall be entitled to use at any reasonable hours for the purpose of their meetings or for any other purposes of this Act any room which belongs to any rating authority within the assessment area or which any such authority is entitled to use. Use of public rooms.

The Act confers no express power upon an assessment committee to hire offices, etc., and by s. 16 (10) one of the points to be considered in forming assessment areas is the availability of suitable premises for the transaction of the committee's business without *unnecessary* expenditure. Power to incur necessary expenditure is, of course, implied.

A rural district council are entitled under the Local Government Act, 1894, s. 59 (3), to use for the purpose of their meetings and proceedings the board room and offices of the board of guardians at all reasonable hours—any dispute as to hours being determinable by the Ministry of Health.

(2) Any person having the control of any room maintained out of the proceeds of any rate levied within the area of a rating authority may put that room at the disposal of the assessment committee for the purposes of any meetings of the committee or for any other purposes of this Act.

This subsection makes it clear that schools may be lent to an assessment committee, *e.g.* if they decide to sit in different parishes to hear objections relating to property therein.

(3) An assessment committee shall pay to the authority or body owning any room used by the committee in pursuance of this section

Section 47. such reasonable sum in respect of the use of a room as may be agreed between the said authority or body and the committee, or in default of such agreement may be determined by the council of the county in which the room is situated.

Presumably in cases coming within sub-s. (2) the amount of any payment, for, *e.g.* cost of heating and lighting, would be agreed; in any case, a purported "determination" under this subsection would not enable the committee to insist upon the rooms being placed at their disposal. But in cases under sub-s. (1), where they can claim to use rooms, some provision for determination of differences is necessary.

PART III.

GENERAL.

Existing Officers and Transfer of Property, &c.

Sections 48 to 51, and Sched. VI., define the position of "existing officers" in respect of three matters, viz. continuance of employment, compensation, and pensions.

In the first place, certain existing officers are transferred to the new assessment committees, and others are transferred to the new rating authorities (s. 48 (1), (2)).

Their new employers need not retain their services (s. 48 (4)); but if their services are dispensed with, they will be entitled to claim compensation under s. 49.

The remaining subsections of s. 48 deal with the salary which a "transferred officer" (see definition in sub-s. (3)) is to receive, and the general conditions which are to apply to his service under his new employers.

Secondly, s. 49 is the compensation section. It gives a right to compensation to a parish officer in office on 22nd December, 1925, or officer of an authority or committee to or from whom duties are transferred by the Act, whether a transferred officer or not, who, as a consequence of the Act, suffers any "direct pecuniary loss" by abolition of office, or diminution or loss of fees, salary, or emoluments. A transferred officer is, however, by sub-s. (2) placed in rather a better position than other officers in regard to the proof of his claim. Section 50 enables certain points as to which difficulties may arise to be referred for decision to the Minister of Health. These are not, however, the provisions under which the Minister will decide disputes as to the right to, or amount of, compensation—this matter being dealt with in Sched. VI.

Thirdly, s. 51 deals with the matter of pensions. In the case of any transferred officer who is at the date of the transfer contributing under the Poor Law Officers' Superannuation Act, 1896, that Act will continue to apply to him subject to necessary modifications to be prescribed by the Minister, unless he consents to transfer to some other scheme (s. 51 (1), (4)).

In the case of an officer transferred to a council who have a local Act superannuation scheme in operation, the officer, though not at present contributing to any pension scheme, may be admitted, upon terms to be agreed, to the council's scheme (s. 51 (2)); and

In the case of an officer who is contributing to a superannuation scheme, and who is transferred to a council or assessment committee who adopt the Local Government and other Officers' Superannuation Act, 1922, the officer may with his consent be brought under the Act of 1922 (s. 51 (3)).

As to the amount of compensation to which an officer may be entitled, see notes to Sched. VI., *post*. **Note to Part III.**

Transfer of existing officers.

48.—(1) Any person who at the passing of this Act is an officer of an assessment committee (*a*) under the Union Assessment Acts, 1862 to 1880, or, being an officer of a board of guardians, is employed in the service of such a committee, including a valuer appointed by the guardians under section thirty-two of the Poor Law Amendment Act, 1868, shall on the appointed day (*b*), as respects that office (*c*), be transferred to and become an officer of the assessment committee for the assessment area comprising the poor law union for which such officer acts or, where the poor law union is not wholly comprised within one assessment area, of the assessment committees (*d*) for the assessment areas into which the poor law union extends.

31 & 32 Vict. c. 122.

(*a*) This subsection deals with the transfer of officers engaged upon assessment work.

Under s. 10 of the Union Assessment Committee Act, 1862, a union assessment committee are directed to employ and pay as their clerk the clerk or assistant clerk of the board of guardians. Strictly speaking, they have no power to employ any other officer at the expense of the common fund of the union; and if they require the services of a valuer to assist them, the guardians appoint one at their request under s. 32 of the Poor Law Amendment Act, 1868.

But in a populous union the work of the assessment committee cannot at the present date be done by one clerk; and the Act recognises that many committees will have subordinate officers, either irregularly appointed by the committee, or appointed by the guardians to serve the committee, or employees of the guardians in practice assigned to assessment work. Such officers if employed in the service of the assessment committee will be transferred; but see note (*c*), *infra*.

It will be noted, however, that it is only an "officer of" the guardians or committee who will be transferred. The term will not, especially in view of the express reference to a valuer appointed under the Act of 1868, include a valuer appointed to make a new valuation list (for remuneration to be paid out of the poor rate of the parish concerned) under ss. 16, 26 of the Union Assessment Committee Act, 1862—such valuer being really an independent contractor engaged to do a particular piece of work; nor will it include the privately employed assistants of an officer, *e.g.* employees in the office of a solicitor clerk to an assessment committee, who receives an inclusive salary to cover the cost of such assistance as he may think fit to obtain. In some cases it will probably be a question of fact whether anything has been done by the guardians or committee amounting to a recognition of an assistant as *their officer*.

(*b*) The transfer takes place on the appointed day (1st April, 1927); but the right to be transferred attached at the passing of the Act (22nd December, 1925). Appointments made after the latter date will carry no right to transfer, and will, in effect, be temporary only.

(*c*) The clerk will continue to serve the guardians in his capacity of their clerk or assistant clerk (as the case may be). It is only in respect of his clerkship to the committee that he will be transferredwith the salary attached to that post. Similarly the valuer, if a part-time officer, will only be transferred as such.

Questions may arise in connection with subordinate officers of the guardians who do a little work, perhaps at particular periods, for the assessment committee. Possibly the expression "employed in the service of such a committee" must be read as importing something more than such casual work at intervals. In any case, where two or three clerks all do a little work for the committee, it will be a matter

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for arrangement whether one should not be taken on by the new committee as a whole time officer, and the others retained by the guardians their appointments, *qua* transferred officers, being formally determined by the committee. If their salaries from the guardians remain the same, they will suffer no pecuniary loss entitling them to compensation.

(*d*) Where an existing union extends into more than one assessment area (as constituted by the Act) the officers will be transferred to the two (or more) new assessment committees; and it will be a matter for mutual arrangement whether they continue as part time officers of more than one, or are taken over by one only.

A similar plan was adopted in the Education Act, 1902, under which the officers of school boards were, in the case of overlapping of new and old areas, transferred to the new authorities jointly, and not to any particular one; and it is understood that in practice the arrangement worked satisfactorily.

(2) (*a*) All assistant overseers, rate collectors, vestry clerks and other officers employed in the performance of the duties of overseers, who are in office at the passing of this Act, shall on the appointed day, as respects (*b*) any such office or duties as are hereinbefore mentioned, be transferred to and become officers of the rating authority of the area comprising the parish for which the officer acts in the execution of that office or in the performance of those duties, and the provisions of any order authorising the appointment of an assistant overseer, collector of poor rates or vestry clerk shall, as from the appointed day, cease to have effect.

(*a*) This subsection deals with the parochial rate-making and rate-collecting officers who on the appointed day (1st April, 1927) will be transferred to the council of the borough or urban or rural district (as the case may be).

As in the case of officers employed upon assessment work, the right to future transfer attached on the passing of the Act; see note (*b*) to sub-s. (1).

Three classes of officers are mentioned by name, assistant overseers, rate collectors, and vestry clerks; but any other person will be transferred who is engaged in the performance of the duties of overseers, and who can properly be called an "officer." The subsection will not apply to persons privately employed by an "officer" to assist him; see note (*a*) to subsection (1). In some cases hardship may result, *e.g.* where a parish council instead of appointing a second assistant overseer to cope with increasing work have raised the salary of the existing assistant overseer to enable him to get "necessary assistance."

There are still in office some assistant overseers appointed prior to 1894 by boards of guardians by virtue of an *Order* of the Poor Law Commissioners (or their successors) made under s. 61 of the Poor Law Amendment Act, 1844, and empowering a particular board to make such appointments. This power of the guardians was, however, discontinued as regards future vacancies by s. 81 (6) of the Local Government Act, 1894.

Subject to the preceding paragraph, assistant overseers are appointed under the Poor Relief Act, 1819, s. 7—in a rural parish by the parish council (if any) or meeting (by virtue of ss. 5 (1), 19 (5) of the Local Government Act, 1894), and in an urban parish by the vestry and justices, or by the borough or urban council (by virtue of an *Order* under s. 33 of the Local Government Act, 1894).

A collector of poor rates may be appointed for a parish (or group of parishes) by the guardians of a union if directed to do so by an Order of the Poor Law Commissioners (or their successors) made under s. 62 of the Poor Law Amendment Act, 1844.

The appointment of a paid vestry clerk was authorised in certain cases by the Vestries Act, 1850. The relevant provisions, however, apply only to parishes with

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a population exceeding 2,000, and even in their case only if the Local Government Board or their successors have made an *Order* putting it in force.

The power to thus appoint a vestry clerk in a rural parish of the necessary size was terminated in 1894, and any vestry clerk then in office became clerk to the parish council (Local Government Act, 1894, s. 81 (2)). At present, therefore, it is only in urban parishes that vestry clerks may be found.

(*b*) See note (*c*) to sub-s. (1).

(3) In the succeeding provisions of this Part of this Act any officer transferred by this section, and the office or duties in respect of which he is so transferred, are respectively referred to as a "transferred officer" and a "transferred office."

(4) The assessment committee, or the rating authority, as the case may require, may determine the appointment of any officer transferred to them, whose office they consider unnecessary.

The words "whose *office* they consider unnecessary" seem inappropriate, for the transferred office, *e.g.* vestry clerkship, assistant overseership, etc., will have ceased to exist by virtue of the Act. Presumably, they must be read in the light of the definition of "transferred office" (sub-s. (3)) as equivalent to "whose *services* they consider unnecessary." It is clearly contemplated that the new authorities may dismiss transferred officers, unless they have security of tenure (see sub-s. (7)); cf. also s. 49 (1), "loss by abolition of office or by determination of his appointment," s. 49 (2) (b), "whose services are dispensed with . . . because his services are not required."

If the officer's employment is determined, he is relegated to his compensation rights under s. 49. He *cannot* elect to resign and claim compensation, unless he is called upon to perform duties which are not analogous to, or are an unreasonable addition to, those which he was performing before transfer (see sub-s. (9)).

(5) Where the salary of an assistant overseer, collector of poor rates or vestry clerk (*a*) has been fixed in consideration of the performance by the officer of all or any (*b*) of the duties of the office of clerk to the parish council, the salary of the officer payable under this Act by the rating authority shall be reduced by such yearly sum as may be determined by the rating authority to represent the proportion of the total salary which is payable in respect of such duties, and the liability of the rating authority for the payment to the officer as from the appointed day of the yearly sum so determined shall be transferred from the rating authority to the parish council.

(*a*) If one of the officers named is acting as clerk to the parish council, his inclusive salary will have to be apportioned between the rural district council to whom he is transferred in respect of his rating duties and the parish council whom he may continue to serve as clerk. Any dispute as to such apportionment is to be settled by the county council (see sub-s. (6)).

(*b*) In some parishes where there are two assistant overseers, one is nominally *the* clerk of the council, but the duties appertaining to the clerkship are treated as joint duties. In this case also an apportionment of salaries will be made.

(6) A parish council may appeal to the county council against a determination of the rating authority under the preceding subsection

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of this section and the decision of the county council on any such appeal shall be final and conclusive.

(7) Every transferred officer shall hold his office by the same tenure (*a*) and on the same conditions (*b*) as heretofore, and while performing similar duties, shall, in respect of a transferred office, receive not less salary or remuneration and shall be entitled to not less pension (if any) (*c*) than the salary, remuneration or pension to which he would have been entitled in respect of that office if this Act had not been passed.

(*a*) It is doubtful whether any officer transferred to an assessment committee can be said to have any "tenure." It is true that a clerk to guardians cannot be dismissed without the consent of the Minister of Health; but his clerkship does not necessarily carry with it the clerkship to the assessment committee, who can appoint either the clerk to the guardians or his assistant, and can apparently dismiss the selected officer at will.

In the case of officers transferred to rating authorities the great majority have no tenure. Only the following have a tenure in the sense that the Minister's consent is required to their dismissal:—

Vestry clerks (Vestries Act, 1850, s. 6).

Assistant overseers appointed by guardians before the coming into operation of s. 81 of the Local Government Act, 1894.

Poor rate collectors appointed by guardians before the Local Government Board Order of 7th September, 1899, which dispensed with the necessity for any consent to the appointment or dismissal of collectors.

(*b*) While a transferred officer performs "similar duties" he is to receive not less remuneration in respect of his "transferred office."

If his duties are diminished, his remuneration may be reduced, but he then has compensation rights under s. 49 (see sub-s. (2) (b) thereof).

If he is required to perform duties which are not analogous to or are an unreasonable addition to his original duties he comes under sub-s. (9) of this section.

"Similar" must not be regarded as equivalent to "the same": for the same remuneration the officer must be prepared to perform such duties as may be assigned to him (see sub-s. (8)) so long as they are similar (or analogous, see sub-s. (9)) in character and reasonably similar in amount.

(*c*) The words are rather vague: it may be doubted whether they are not a survival from earlier Acts not containing any section corresponding to s. 51, *post*. They do not appear to add anything to that section in the case of an officer who is at present under the Poor Law Officers' Superannuation Act, 1896; nor do they appear to assist an officer who may be under the Poor Law Officers' Superannuation Act, 1864, for pensions under that Act are discretionary. They would, however, protect any officer who may be "entitled to" rights under a local Act superannuation scheme or under the Local Government and other Officers' Superannuation Act, 1922.

(8) The assessment committee, or the rating authority, as the case may require, may distribute their business among the transferred officers in such manner as they may think proper, and every officer shall perform such duties in relation to that business as may be directed by the assessment committee or rating authority.

(9) If, at any time within five years after the appointed day, any transferred officer is required to perform duties which are not analogous to, or which are an unreasonable addition to, those which he was required to perform in respect of the transferred office immediately before the appointed day, the officer may relinquish his office.

This subsection only has effect for five years from the appointed day.

Note to Section 48.

If the duties which he is asked to perform are not analogous or are an unreasonable addition, the officer is not bound to accept any additional remuneration offered, however reasonable it may be in amount; he may resign and claim compensation (s. 49 (2) (a)).

It will, however, be for the Minister, if the claim for compensation is disputed, to decide whether the duties are analogous, etc., *after* the officer has committed himself by retiring. It behoves him, therefore, to be sure of his ground. At the same time, if additional remuneration is offered to him, the offer (if not explainable on other grounds) may be virtually an admission in his favour.

Compensation to existing officers.

49.—(1) Every officer (*a*) of any authority or committee to or from whom duties are transferred by this Act, and every parish officer in office at the passing of this Act, who by virtue of this Act, or of anything done in pursuance or in consequence thereof, suffers any direct pecuniary loss by abolition of office or by determination of his appointment or by diminution or loss of fees, salary or emoluments and for whose compensation for that loss provision is not made by any other enactment for the time being in force (*b*), shall be entitled to compensation under this Act for that loss.

(*a*) See notes to s. 48 (1) (2), *ante*. The term will include any person who is definitely appointed by a board of guardians, assessment committee, parish council or meeting to perform public duties and whose salary is fixed by them and paid direct to him out of the rates. It is not wide enough to include a person engaged by an "officer" to assist him in his duties, even though the officer's salary is fixed with the intention that he shall employ and pay such assistants as he finds necessary.

This is the section which confers the right to compensation. Having regard to the wording of s. 48 (1) (2), the words "in office at the passing of this Act" probably apply to both the named classes of officers—punctuation cannot be relied upon in construing a statute. The right to compensation is not limited to transferred officers, but extends to every officer of any authority or committee from or *to* whom duties are transferred, and every parish officer in office at the passing of the Act who suffers direct pecuniary loss by virtue of the Act (or something done in pursuance or consequence thereof) by

(a) abolition of his office or determination of his appointment, or
(b) diminution or loss of fees, salary, or emoluments.

If, therefore, for instance, the amalgamation of the staff of the overseers and that of an urban council leads to a reduction, an officer of the council who is selected as the victim is entitled to compensation just as the assistant overseer would be. As to the calculation of compensation, see notes to sub-s. (4), *post*, p. 92.

(*b*) It is difficult to imagine what officers affected by this Act are likely to be covered by any other compensation provisions. The words have perhaps found their way into the section from earlier Acts.

(2) For the purposes of this section, any transferred officer—

(a) who relinquishes under the provisions of this Act a transferred office; or

(b) whose services are dispensed with or whose salary is reduced by any assessment committee, or by any rating authority, within five years after the appointed day, because his services are not required, or his duties are diminished, and not on the ground of misconduct;

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shall be deemed, unless the contrary is shown, to have suffered a direct pecuniary loss in consequence of this Act.

This subsection applies only to transferred officers, and only for five years. Generally speaking, a claimant for compensation must show that he has suffered a pecuniary loss, and that he has suffered it in consequence of the Act. In the case, however, of a transferred officer the burden of proof is for a period of five years from 1st April, 1927, upon those who dispute his claim. He is, until the contrary is proved, presumed to have suffered direct pecuniary loss in consequence of the Act

(i) if within the five years he has relinquished his office under s. 48 (9) (being justified in so doing); or

(ii) if within the five years—there being no charge of misconduct—either

(a) he is dismissed, because his services are not required, or

(b) his salary is reduced, because his duties are diminished.

(3) Any application by an officer for compensation under this Act shall be made to the assessment committee or assessment committees, or rating authority, to whom the officer is by this Act transferred.

See also s. 50 (2). In the case of transferred officers—*i.e.* parish officers and officers of an authority *from* whom duties are transferred (sub-s. (1))—there might have been doubts as to whether the old or new employers should pay the compensation. In the case of an officer of an authority *to* whom duties are transferred, express provision was presumably considered unnecessary.

(4) The provisions contained in the Sixth Schedule to this Act shall have effect with regard to the determination and payment of compensation under this Act to officers.

The compensation payable is determined in accordance with the provisions of the Local Government Act, 1888, s. 120, as modified by the provisions of Sched. VI. Section 120 itself will be found set out in the notes to the Schedule, where the subject is dealt with more fully. Compensation usually takes the form of an annual payment depending upon (a) length of service, and (b) *net* annual pecuniary loss, calculated on an average of five years. The maximum annual payment is two-thirds of the loss.

Disputes are determined by the Minister.

Determination of questions as to transferred officers, &c.

50. If any question arises as to—

(1) the transfer of an officer in consequence of the provisions of this Act (*a*);

(2) the authority to whom application by an officer is to be made for compensation under this Act; or

(3) the fund (*b*) out of which the compensation (if any) is to be paid, or the proportions in which any compensation awarded is payable by any authorities;

the Minister may, on the application of the officer or any authority, determine the question (*c*).

(*a*) The scope of (1) is somewhat vague. Presumably, it covers the question whether a person claiming to be a transferred officer is an "officer" or not. Possibly it covers the question which of two authorities an officer is to serve, if under s. 48 he is transferred to both, but it is not possible for him to serve both. It is difficult to see what other question can arise "as to" the transfer of an officer.

(*b*) See also Sched. VI., 1 (b).

(*c*) The Minister can determine such a question upon the application of any party.

Section 51. Superannuation of transferred officers.

51.—(1) If the annual contributions required by the Poor Law Officers' Superannuation Act, 1896, have been made by any officer transferred by this Act to an assessment committee, or to a rating authority, the provisions of the Act of 1896 shall, as respects the transferred office, apply subject to such modifications as the Minister may by order direct for the purposes of making that Act applicable to the case.

Section 51 applies only to transferred officers.

Sub-s. (1) applies to those transferred officers who are contributors under the Act of 1896. All officers transferred under s. 48 (1) to the new assessment committees will be—or should be—such contributors, unless they were in office in 1896, and elected to remain under the earlier Poor Law Officers' Superannuation Act, 1864. Of the officers transferred under s. 48 (2) to the new rating authorities only assistant overseers appointed by guardians and poor rate collectors will be concerned.

The following are modifications which have been made in the case of borough extension orders containing an article similar in terms to the present subsection:—"The modifications of the Act of 1896, subject to which the provisions of that Act shall apply for the purpose mentioned in Article — of the Order of 19—, shall be as follows: (a) References to the Corporation shall be substituted for references to the Guardians, and the provisions of the Act of 1896 shall, in other respects, apply and have effect as if the Corporation were, within the meaning of those provisions, an authority to which that Act applies; (b) the Guardians of the —— Union shall pay to the Corporation the amount of all contributions under the Act of 1896 paid to them [or to the authority from which the officer was transferred to the Corporation,] before the date of the transfer, by a transferred Officer; (c) the contributions of any transferred officer, and any contributions received by the Corporation under the preceding paragraph of this Article, shall, from and after the date of the transfer, be carried to and form part of the borough fund, or shall be applied in aid of the borough rate, and any superannuation allowance or gratuity under the provisions of the Act of 1896 shall be paid by the Corporation out of the borough fund or borough rate; (d) if a transferred officer becomes entitled to compensation by reason of the relinquishment or abolition of his office, he shall be deemed to lose his office within the meaning of section 8 of the Act of 1896, and the amount which he shall be entitled to receive, in pursuance of that section, shall include every payment made to the Corporation by the Guardians in respect of his contributions in pursuance of this Order."

Presumably the Minister's modifications will follow similar lines.

(2) Any rating authority who have established under any local Act a superannuation fund or scheme or other fund or scheme for ensuring benefits to an officer on retirement, may, with the consent of any officer transferred to them by this Act, admit such officer to the benefits of that fund or scheme on such terms and conditions as they may think fit.

This subsection applies only to officers transferred to a rating authority. A few of these will come under sub-s. (1); but the majority will not be under any pension or superannuation scheme.

If the rating authority happen to have a local Act scheme or fund in force, the transferred officers may be admitted to it upon agreed terms.

(3) Notwithstanding anything in section twenty-seven of the Local Government and other Officers' Superannuation Act, 1922, if

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that Act can be and is adopted by a council, who are a rating authority, or by an assessment committee, whether alone or in combination with another local authority and whether before or after the appointed day, the Minister may by order provide for the application of that Act, as regards any transferred office, to such of the officers transferred by this Act to the rating authority or assessment committee, as were subject to any superannuation scheme in respect of the transferred office before the appointed day.

Sub-s. (3) applies in cases where either a new assessment committee or rating authority adopt, or have in the past adopted, the Local Government and other Officers' Superannuation Act, 1922.

In such a case a transferred officer who was subject before transfer to *any* superannuation scheme may with his consent, but not otherwise, be transferred from his existing scheme to his authority's scheme under the Act of 1922.

It is not probable that officers who are under the Poor Law Officers' Superannuation Act, 1896, would elect for such a transfer (see sub-ss. (1), (4)); and very few transferred officers will be under any other scheme. The subsection, therefore, is not likely to be much used.

(4) Nothing in this section shall require any officer to whom the Poor Law Officers' Superannuation Act, 1896, applies to become otherwise than with his consent a member of or contributor to any superannuation fund or scheme or other fund or scheme for securing benefits to an officer on retirement.

(5) Nothing in this Act shall transfer to any assessment committee or rating authority any liability of a board of guardians in respect of a superannuation allowance to an officer who shall have ceased to hold office before the appointed day.

Transitional provisions.

52. The provisions set out in the Seventh Schedule to this Act (which relate to the transfer of the property and liabilities of existing authorities and to other transitional matters), shall have effect for the purpose of bringing this Act into operation.

Sched. VII. deals with the following matters :—

Para. 1. Transfer of property and liabilities of existing assessment committees.

„ 2. Transfer and custody of books and documents relating to assessment, rating and other parochial matters.

„ 3. Transfer of property generally.

„ 4, 5. Application of balances in hands or books of overseers, rural district councils and guardians, and adjustments in respect thereof.

6. Arrears of rates and precepts ; making up and audit of accounts.

„ 7, 8. Savings for existing securities, contracts, rights of action and legal proceedings.

„ 9. Making of poor rates in an urban rating area comprising more than one parish between 1st April, 1927, and the date of the first general rate for the area.

„ 10. Issuing of county precepts for the financial years 1927–8 and 1928–9.

Expenses, Accounts, and Officers of Authorities.

53.—(1) Any expenses incurred under this Act by an assessment committee, including the costs of an appeal awarded against or incurred by the committee under this Act, shall, where the assessment area consists of one rating area, be charged on that area, and shall, where the assessment area comprises two or more rating areas, be charged on those areas respectively in proportion to the rateable values of all property therein, and precepts may be issued by the assessment committee to rating authorities accordingly. Expenses.

As to audit of accounts, see s. 54, *post.*

All expenses of an assessment committee are to be spread over its whole area. If that area comprises only one rating area, the committee will issue a precept for the whole amount wanted by them to the rating authority; if it contains more than one rating area the committee will apportion the amount between the areas according to totals of rateable value, and issue precepts accordingly. Presumably the totals of rateable value should be calculated as at the date of the precepts. No date is fixed for issuing precepts, but the principle embodied in s. 9 (2) (e) is a convenient one.

In addition to salaries and other administrative expenses, and costs incurred in connection with appeals under ss. 31 *et seq.*, see especially s. 32 (3) as to their liability for costs in the absence of any other respondent—the committee will, or may, have expenses under sub-s. (2) and sub-s. (3) of this section, and under s. 57 (3).

(2) An assessment committee may repay to any members of the committee attending conferences (*a*) held by county valuation committees under this Act any travelling and subsistence expenses which may have been reasonably incurred by those members in so attending, and any sums so repaid by an assessment committee to any of its members shall be treated as part of the expenses of the committee under this Act.

A county valuation committee may make similar repayments in the case of any members of the committee who are members of the council of the county, and any expenses incurred by a county valuation committee under this Act shall be defrayed as expenses for general county purposes.

(*a*) There is no power to pay the expenses of their representative on the county valuation committee in connection with *meetings of* that committee. In the case of *conferences* held by that committee they may pay the expenses of "any members" attending; and apparently this will include their representative on the committee, as well as other members delegated to attend. The auditor will presumably consider how many delegates it was reasonable to send. Similarly the county valuation committee may pay the conference expenses of any members who are county councillors, but not their expenses incurred in attending meetings.

The expenses of the county valuation committee will be spread over the whole of the administrative county.

(3) Where it appears to an assessment committee that an appeal under this Act in respect of a hereditament included in the valuation list for another area involves a principle which may affect the rateable

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value of property in the area of the committee, it shall be lawful for the committee to enter into an agreement with the assessment committee who are the respondents to the appeal to make a reasonable contribution towards any costs which may be incurred or be payable by that other committee in connection with the appeal.

See also s. 18 (3) as to combined action with County Valuation Committees.

This subsection enables an assessment committee to share with another committee the cost of resisting an appeal. In effect it reproduces s. 29 of the Poor Law Amendment Act, 1868, under which guardians may in some cases agree to share the costs of an appeal. It does not, however, enable rating authorities to unite to fight a test case, either as appellants or respondents. If rating authorities desire to do this, they must, it would seem, apply for sanction under the Local Authorities (Expenses) Act, 1887.

(4) Any expenses incurred under this Act by a rating authority shall be paid out of the general rate raised by the authority for their area, or if incurred during the interval before the first general rate for the area is made under this Act, out of the poor rate.

A rating authority's expenses under the Act are charged on the whole rating area, and not on parishes or other parts of the area.

(5) Any sums received (*a*) under this Act by any authority, not being receipts from a rate, shall, subject to the foregoing provisions of this Act, be applied in the reduction of the expenses of the authority under this Act.

(*a*) *E.g.* payment for copies of rates under s. 43 (2).

Accounts of assessment committees, &c.

54.—(1) The accounts of the receipts and expenditure under this Act of assessment committees, and of rating authorities, and of the officers of those authorities respectively, shall be made up, and shall be audited by district auditors, in like manner and subject to the same provisions as the accounts of a county council, and the enactments relating to the audit of those accounts, and to all matters incidental thereto and consequential thereon, shall apply accordingly, subject to such modifications, if any, as the Minister may prescribe.

The section relates only to receipts and expenditure "under this Act." In the case of an assessment committee there will be no other receipts or expenditure; but in the case of a rating authority their only receipts and expenditure "under this Act" will be those recorded in their rate collection accounts and possibly a few small items in respect of any duty of overseers which may be transferred to the council under s. 62.

At present all the accounts of overseers, guardians (including of course their assessment committees) and local authorities generally are subject to audit by district auditors except in the case of (about) two hundred boroughs, where only certain parts of the accounts are so audited (*e.g.* housing and education).

When the poor rate (the *collection* accounts of which are everywhere subject to district audit) and the general district rate (the *collection* accounts of which are so subject in the case of all the smaller authorities) are consolidated, it is almost necessary that the *collection* accounts of the new consolidated rate should be audited by the district auditor, and all local Rate Consolidation Acts have made provision for this. This subsection accordingly does the same. As, however, only the accounts

of receipts and expenditure "under this Act" are affected, there is no material extension of the liability to audit. If, for instance, at present the tramways accounts or electricity accounts of a borough are not subject to district audit, they will not become so, the audit ceasing at the point where lump sums are transferred from the general rate collection account to the account relating to the particular undertaking or service.

Note to Section 54.

The provisions relating to the audit of the accounts of a county council are those (contained in the Public Health Act, 1875, ss. 247, 250) which govern audit in the case of accounts of a district council (Local Government Act, 1888, s. 71).

(2) For the purposes of ascertaining the amount of the stamp duty chargeable in respect of the accounts of rating authorities, transfers from the rating account of a rating authority to accounts relating to its various services shall be treated as sums paid in pursuance of precepts.

This subsection is necessary to prevent the accrual of a new (or, as the case may be, a duplicated) liability to stamp duty.

The services of district auditors are paid for by local authorities by an "audit stamp duty," it being their obligation to stamp the financial statement submitted to the auditor with a stamp varying in value according to the amount of the "expenditure" shown. But for some such provision as the present, duty would become chargeable on all the "expenditure" on one side of the general rate collection account, although that so-called expenditure (except the expenses of collecting the rate) will be mainly transfers to the various service accounts in which the true expenditure of the money will be shown in detail. If those service accounts are now subject to audit, duty will continue to be paid upon their audit; if they are not, a duty will not be imposed.

At present sums paid out under precepts to another authority are not taken into account in calculating expenditure for stamp duty purposes; and, when a general rate collection account is instituted, payments out of it to various services and undertakings are in effect equivalent to payments under precepts.

55.—(1) It shall be lawful for rating authorities, assessment committees, and county valuation committees to appoint for the purposes of this Act such rating officers, valuation officers and other officers as they think fit, and to pay to any officers so appointed such reasonable salaries as they think fit.

Power of rating authorities, assessment committees, and county valuation committees to appoint officers.

Power to *employ* valuers has already been given by s. 38.

(2) Where any officer appointed by a rating authority under this section or transferred to them by this Act is entrusted with the custody or control of money, the rating authority, unless a policy of guarantee or other security is in force of such an amount as may reasonably be expected to cover any loss in the event of a default of the officer, shall obtain a policy of guarantee, or other security, of adequate amount, for the due performance by the officer of his duties.

Presumably a security for an officer's fidelity given to his original employers is a contract "affecting" a transferred officer within the meaning of Sched. VII., 8 (3), which will have effect as if the assessment committee or rating authority (as the case may be) were a party thereto instead of the authority named therein. At the same time it would be unsafe without careful consideration of the terms of each security

Note to Section 55.

to assume that it will protect his new employers from any default on his part. The general rule is that a surety is discharged from liability if without his assent his risk is materially increased by a material alteration in the duties of the person guaranteed, *e.g.* an increase in the area of his district, the imposition of new duties entailing the handling of more money, etc. In an Irish case—*Newry U. D. C.* v. *Livingstone* (1905), 39 I. L. T. R. 250—a consolidation of rates was held to avoid a bond. The legal decisions on such points are too numerous to refer to here; but a number of them will be found noted in Lumley's Public Health Acts, vol. i., p. 459.

It will be seen that sub-s. (3) makes provision for preserving securities notwithstanding a change in the area of the authority or in the district of the officer; but this provision though useful in the future, would seem to apply only to securities "obtained by" a rating authority and not to securities transferred to them by Sched. VII. 8 (3).

It will be noted that the subsection applies only to rating authorities and not to assessment committees, presumably because their officers will not as a rule handle much money.

At present assistant overseers give security either to the guardians under the Poor Law Amendment Act, 1844, s. 61, or to the overseers under the Poor Relief Act, 1819, s. 7. In a rural parish the parish council may be parties to the same bond in respect of parish council (as distinct from poor rate) moneys and accounts—see hereon *Cosford Union* v. *Poor Law, etc., Assocn.* (1911), 75 J. P. 30. In such a case, if it be decided to continue the present security, the premium will require to be apportioned.

Collectors of poor rates are required to give security to the guardians—either under the Poor Law Amendment Act, 1844, s. 61, or under the Poor Law Board's General Order of 1847.

Vestry clerks may be required to give security under the Vestries Act, 1850, s. 8; and it is believed that they generally do so.

(3) Any security obtained by a rating authority under this section shall remain in full force notwithstanding any alteration in the boundary of the rating area, or any change in the district for which the officer is to act.

See note to sub-s. (2).

(4) The rating authority may defray the cost of any security obtained by them under this section, and every such security shall be produced to the district auditor at the audit of the accounts of the rating authority.

At present there is no statutory power for the premium on poor law officers' bonds to be paid out of the rates. The official view appears to be that when an appointment is made it is permissible to make it a term that the premium shall be so paid—in effect, to divide the salary offered into premium and salary proper. If, however, a salary is fixed, nothing being said about the premium, there is no power to pay the premium in addition to the salary.

Henceforth, any necessary premium can be paid in addition to the salary without any previous agreement upon the point.

Authority to clerk to collect rates.

56. The rating authority may either generally or in respect of any special proceeding by resolution authorise their clerk to institute, carry on, or defend proceedings in relation to the collection or recovery of rates which the rating authority are themselves authorised to institute, carry on, or defend,

Note that this section is confined to proceedings relating to the collection or recovery of rates. **Note to Section 56.**

By s. 68 (1) clerk includes any officer authorised to act on behalf of the authority either generally or in relation to any particular matter. The authority can, therefore, give a general authority either to their clerk or to some other officer authorising him to, *e.g.*, take out and prosecute summonses for non-payment of rates.

See s. 31 (9) as to authorising an officer to institute or defend proceedings in relation to a valuation list, and see s. 59 (3) as to authorising an officer to sign and serve notices, etc.

Miscellaneous.

57.—(1) For the purpose of promoting uniformity in valuation there shall be constituted, in accordance with a scheme to be made by the Minister after consultation with local authorities and associations of local authorities and any organisation representing assessment committees constituted under the Union Assessment Acts, 1862 to 1880, a Central Valuation Committee consisting of members of rating authorities, county valuation committees, and assessment committees, and of such other persons, if any, not being officers of the Department of Inland Revenue as may be provided by the scheme. Constitution of Central Valuation Committee for promoting uniformity in valuation.

The functions of the Central Valuation Committee will be advisory only, though no doubt their opinions upon the correct principles of valuation will carry weight with county valuation committees. Under Sched. 1., 7, they will receive annual reports from all assessment committees.

(2) The Central Valuation Committee shall take into consideration the operation of this Act and shall give to the Minister such information and make to him such representations in respect thereto as they may consider desirable for promoting uniformity and removing inequalities in the system of valuation, and shall for those purposes hold conferences or otherwise consult with such persons or bodies as they think desirable.

(3) Any rating authority, county valuation committee, or assessment committee may, subject to the provisions of the scheme, make contributions towards the expenses of the Central Valuation Committee.

It will be noticed that contributions are not made compulsory, and that there is no provision for paying the expenses of either members or delegates attending either meetings or conferences, cf. s. 53 (2).

(4) The Central Valuation Committee shall submit to the Minister an annual report of its proceedings.

(5) Any scheme to be made by the Minister under this section shall be laid before each House of Parliament forthwith and, if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such scheme is laid before it praying that the scheme may be annulled, His Majesty in Council may annul the scheme and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new scheme.

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Power to make rules.

58.—(1) The Minister, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe anything which by this Act is to be prescribed and the form of any rate, demand note, valuation list, statement, return or other document whatsoever which is required or authorised to be used under or for the purposes of this Act.

(2) Every rule made under this section shall be laid before both Houses of Parliament forthwith, and if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such rule is laid before it praying that the rule may be annulled it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new rule.

A power to prescribe forms "by rule" carries with it a power to amend such forms, by virtue of s. 32 (3) of the Interpretation Act, 1889.

It may be assumed that in the interests of uniformity a complete set of forms for use under the Act will be prescribed at an early date.

Service of notices, &c.

59.—(1) Any notice, demand note, order or other document required or authorised to be sent or served under or for the purposes of this Act may be sent or served either—

(a) by delivering it to the person to or on whom it is to be sent or served; or

(b) by leaving it at the usual or last known place of abode of that person, or in the case of a company at its registered office; or

(c) by forwarding it by post addressed to that person at his usual or last known place of abode, or in the case of a company at its registered office; or

(d) by delivering it to some person on the premises to which it relates or (except in the case of a document being a summons) if there is no person on the premises to whom it can be so delivered, then by fixing it on some conspicuous part of the premises; or

(e) without prejudice to the foregoing provisions of this subsection, where the hereditament to which the document relates is a place of business of the person to or on whom it is to be sent or served, by leaving it at, or forwarding it by post addressed to that person at, the said place of business.

This section will simplify to a considerable extent the procedure which has hitherto been followed with regard to the service of demand notes.

In the case of the poor rate, the procedure has been regulated by the General Order of the Local Government Board of the 14th June, 1875, which required, *inter alia*, that a demand note should be left with the ratepayer or at his address. Service by post was not authorised. Where the person rated did not reside on the premises nor in the parish for which the rate was levied, provision was made under s. 39 of the Poor Law Amendment Act, 1868, whereby the demand note could be effectively

Note to Section 59.

served by leaving it with the person having charge or custody of the premises, or by affixing it to some conspicuous part of those premises, and under s. 40 (*ibid.*) service by post was authorised in the case of an assessment made upon corporations, joint stock or other companies, conservators, or other public trustees.

In the case of the general district rate, the procedure authorised under s. 267 of the Public Health Act, 1875, was substantially the same as that contained in the new provisions.

The present section provides alternative methods of service any one of which may be employed, and it will doubtless be found expedient to vary the method in different cases. It will come into operation on the appointed day, *i.e.* the 1st April, 1927, and will consequently apply to the poor and general district rates which will continue to be levied in urban areas between that date and the date when rate consolidation takes effect.

It will be observed that, with the exception mentioned in sub-s. (1) (d), the provisions will apply to summonses in respect of non-payment of rates: cf. *R.* v. *Mead*, [1894] 2 Q. B. 124; 58 J. P. 448; *R.* v. *Braithwaite*, [1918] 2 K. B. 319; 82 J. P. 242.

With regard to service by post, s. 26 of the Interpretation Act, 1889, provides as follows:

"Where an Act passed after the commencement of this Act authorises or requires any document to be served by post, whether the expression 'serve' or the expression 'give' or 'send,' or any other expression is used, then, unless the contrary intention appears the service shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the document, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post."

As to the necessity for proving "prepayment" of postage, see *Walthamstow R. D. C.* v. *Henwood*, [1897] 1 Ch. 41; 61 J. P. 23.

(2) Any notice, demand note, order or other document by this Act required or authorised to be served on the owner or occupier of any premises may be addressed by the description of the "owner" or "occupier" of the premises (naming them), without further name or description.

The power given under this subsection to employ the expressions "owner" and "occupier" will give considerable help in advancing the rate collection, as demand notes will be able to be served effectively without waiting for the discovery of names.

(3) Any notice, demand note, order or other document of any description required or authorised for the purpose of this Act to be sent or transmitted to or served on any public or local authority (including an assessment committee) shall be deemed to be duly sent, transmitted or served if in writing and delivered at or sent by post to the office of the authority addressed to that authority or to their clerk, and any notice, demand note, order or other document required or authorised to be sent, transmitted or served under this Act by any authority or body shall be sufficiently authenticated if signed by the clerk of the authority or body.

With reference to the authentication of documents, the required signature can be equally well given by the assistant clerk or other officer authorised to act under s. 68 (1), *post*. See also s. 31 (9) as to authority to act in regard to appeals, and s. 56 as to authority in connection with the recovery of rates.

Section 60.
Inspection of documents.

60.—(1) Any ratepayer (*a*) (whether a ratepayer in the rating area to which the documents relate or in some other area) may at all reasonable times, on payment, in the case of a document which is more than ten years old, of such fee as may be prescribed (*b*), and in any other case, without payment, inspect and take copies of and extracts from any rate book (whether current or closed), draft list, valuation list, notice of objection, proposal for amendment of the valuation list, notice of appeal, record of totals, valuation made by a valuer appointed by an assessment committee or minutes of the proceedings under this Act of any such committee or of a rating authority (*c*).

(*a*) See definition in sub-s. (4).

(*b*) *I.e.* under s. 58.

(*c*) This section replaces several existing provisions as to rate books:—

Under ss. 2, 3 of the Poor Rate Act, 1743, inhabitants of a parish may inspect any poor rates (including a closed rate) (*Batcheldor* v. *Hodges* (1836), 4 A. & E. 592) upon payment of one shilling and may demand a copy upon payment of sixpence for every twenty-four names.

Under s. 13 of the Poor Relief Act, 1743, any person assessed or liable to be assessed to the poor rate "may freely resort to" the rate books.

Under s. 5 of the Parochial Assessments Act, 1836, any person rated to the relief of the poor of any parish may take copies of, or extracts from, the poor rate without payment. It was held in *Tennant* v. *Craston* (1846), 8 Q. B. 707, that this provision did not repeal the provisions of the Poor Rate Act, 1743.

Under s. 7 of the Vestries Act, 1850, it was one of the duties of a vestry clerk (where appointed) to keep the vestry books, parish deeds, and documents, and closed rate books and accounts, to supply (upon payment) copies or extracts to persons entitled thereto, and to permit inspection by any person rated to the relief of the poor of the parish.

The provisions above referred to (except s. 13 of the Poor Relief Act, 1743) and also s. 7 of the County Rates Act, 1852, are repealed; but certain other provisions as to inspection of rate books are left in force,—see s. 33 of the Poor Law Amendment Act, 1844, as to inspection of books when deposited prior to audit; s. 39 of the Taxes Management Act, 1880, as to land tax commissioners; ss. 114, 115 of the Income Tax Act, 1918, as to revenue officials; s. 13 of the Parliamentary and Municipal Registration Act, 1878, as to voters in a parliamentary borough and burgesses of a borough; s. 212 of the Public Health Act, 1875; s. 144 of the Municipal Corporations Act, 1882.

The present section does not, it will be seen, apply to the "Returns" required by ss. 40, 41.

(2) If any person having the custody of any document to which this section applies—

(a) obstructs any person in making any inspection or copy thereof or extract therefrom which he is entitled to make under this section; or

(b) demands, when not authorised by this Act, a fee for allowing him so to do;

he shall on summary conviction be liable for each offence to a fine not exceeding five pounds.

As to the custody of books and documents transferred by this Act, see Sched. VII., 2; and as to valuation lists, see s. 28 (4).

(3) Subsection (5) of section fifty-eight of the Local Government Act, 1894 (which provides for the inspection of documents belonging to the council of a rural district), shall not apply as respects any document to which this section applies, or any other document which is required or authorised to be used under or for the purposes of this Act. Section 60.

By s. 58 (5) of the Local Government Act, 1894, a parochial elector of a *rural* parish may at all reasonable times without payment, inspect and take copies of, and extracts from, all books, accounts, and documents belonging to or under the control of the district council, parish council, or parish meeting. As to this section, see *R.* v. *Godstone R. D. C.*, [1911] 2 K. B. 465 ; 75 J. P. 413, and other cases cited in the notes thereto in Lumley's Public Health Acts.

This provision, however, is not to apply in the case of documents under this Act.

(4) For the purposes of this section the expression "ratepayer" includes an occupier who pays a rent inclusive of rates, and also includes any person authorised by a ratepayer to act on his behalf under this section.

A definition of ratepayer for other purposes is to be found in s. 68 (1).

61.—(1) The Minister may direct any inquiries to be held by his inspectors which he may deem necessary with reference to the purposes of this Act and such inspectors shall for the purposes of any inquiry have all such powers as they have for the purposes of inquiries directed by the Minister under the Public Health Act, 1875. Provisions as to inquiries.

(2) Where the Minister causes any such inquiry as aforesaid to be held the cost incurred by the Minister in relation to that inquiry (including such reasonable sum not exceeding five guineas a day as the Minister may determine for the services of any inspector or officer of the Minister engaged in the inquiry) shall be paid by such authority as the Minister may direct, and the Minister may certify the amount of the costs so incurred and any amount so certified and directed by the Minister to be paid by any authority shall be a debt due to the Crown from that authority.

It may be necessary for local inquiries to be held by an inspector of the ministry in connection with the constitution of assessment areas under s. 16, the making of orders for modifying local Acts, or for removing difficulties, under ss. 66, 67 and the framing of special schemes under s. 64 (2) and Sched. II., Part III.

As to the powers of an inspector holding an inquiry under the Public Health Act, 1875, see *ibid.*, s. 296.

62.—(1) After the appointed day overseers shall cease to be appointed, and His Majesty may by Order in Council to be made at any time after the passing of this Act provide, subject to the provisions of this Act, for the transfer as from the appointed day to rating authorities, or such other local authorities or persons as seems expedient, of the powers and duties of and any property vested in overseers, and any such Order may contain such supplemental and consequential provisions Abolition of overseers and transfer of their powers and duties.

Section 62.

as appear to His Majesty to be necessary or expedient to make in connection with the abolition of the office of overseer.

(2) His Majesty may refer to a committee of the Privy Council the appointment of persons to prepare the drafts of Orders to be made under this section, and before any such Order is made the draft thereof shall be laid before both Houses of Parliament, and if either House within the next subsequent twenty days on which that House has sat next after the draft is laid before it presents an Address to His Majesty against the draft, or any part thereof, no further proceedings shall be taken thereon, but without prejudice to the making of any new Order.

(3) Any reference in any Act or document to overseers in relation to any of their powers or duties shall be construed as references to the rating authority or to the other persons to whom those powers or duties are transferred by or in pursuance of this Act.

The powers and duties of overseers in relation to the making, levying, and collection of rates are expressly transferred by s. 1 (2) to the rating authority. See s. 69 (3) as to the exercise by the rating authority of their powers and duties in connection with valuation lists in the interval between the appointed day and the coming into force of the first new valuation list made under the Act.

The present section deals with other powers and duties of overseers which are of a very miscellaneous character and vary in some respects according to whether the particular parish is urban, rural with a parish council or rural without a parish council. Amongst such powers and duties the following may be mentioned: the giving of temporary relief, or order for admission to workhouse, in cases of sudden and urgent necessity (Poor Law Amendment Act, 1834, s. 54; Poor Law Orders); duties in regard to lunatics wandering at large, not under proper care and control, etc. (Lunacy Act, 1890, ss. 13–16, 20; Lunacy Act, 1891, s. 2); duty to bury human bodies found in, or washed up by, tidal or navigable waters (Burial of Drowned Persons Acts, 1808 and 1886); certain duties in respect of the holding and management of parish property and allotments under Enclosure Acts, and parochial charities; duties in respect of vestry meetings, parochial offices and parish books; in respect of closed churchyards (Burial Act, 1855, s. 18), mortuaries (Burial Act, 1852, s. 42), and fire-engines (Poor Law Amendment Act, 1857, s. 29); assistance to registration officer in preparing voters' lists, and jury lists; certain duties under the Parish Constables Act, 1842, and the Disorderly Houses Acts, 1751 and 1818; duties as to publishing and serving notices to men of the reserve forces and territorial army (Reserve Forces Act, 1882, s. 24; Territorial and Reserve Forces Act, 1907, s. 19). In addition, a number of notices and other documents have to be served on or kept by overseers, *e.g.* notices by applicants for certain liquor licences and for pawnbrokers' certificates, notices as to the apportionment of certain county expenses in which the parish is concerned, as to the proposed execution of certain sanitary works, etc.

See Sched. VII. as to the method of dealing with overseers' books and documents, balances, liabilities, etc.

Interest in municipal property not to disqualify.

63. Subject to the provisions of this Act relating to appeals to quarter sessions, the interest of any council in any property of which they or the corporation for which they act are owners or occupiers shall not disqualify the council or any member thereof for acting under this Act in relation to that property.

The provisions referred to are contained in s. 31 (11) under which a justice who is a member of an authority which is a party to an appeal to quarter sessions under Part II. of the Act is disqualified for sitting to hear the appeal.

A member of a rating authority can under this section act in preparing a draft valuation list notwithstanding that he will have to deal with property owned or occupied by the authority or by some other council (*e.g.* county or parish council) of which he is a member. So, too, a member of an assessment committee can act in relation to property owned or occupied by any council (whether county, borough, district or parish council) of which he is a member. But under Sched. I (11) private interest in any property disqualifies a member of an assessment committee from acting in relation to it.

Note to Section 63.

The section is not so worded as to apply to guardians whose board may own property in the valuation list.

64.—(1) Subject as otherwise expressly provided in this Act (*a*). Savings. nothing therein contained shall affect (*b*)—

(a) the principles (*c*) on which hereditaments are to be valued or any privilege or any provision for the making of a valuation on any exceptional principle ; or

(b) any exemption from or privilege in respect of rating conferred by any local Act or order on the occupiers of hereditaments in any particular part of a rating area (*d*) or on the occupiers of any particular hereditaments (*e*) ; or

(c) any provision in any local Act under which the owner of a hereditament is liable to pay or bear a portion of any rate in relief of the occupier without being entitled to any commission, reduction, or allowance in respect of that liability (*f*) ; or

(d) any statutory provision authorising the appointment of a person to raise a rate on default being made by a local authority in performing any duty or making any payment (*g*) ; or

(e) any exemption from rating under section thirty-three of the Highway Act, 1835 (*h*) :

Provided that for the purpose of any provision in any local Act conferring any exemption or privilege in respect of any rates which at the commencement of that Act were or might thereafter become leviable by an authority being an authority empowered to levy a general rate under this Act, such part of the general rate levied by the authority as represents rates which immediately before the appointed day were not levied by the authority shall not be deemed to be a rate levied by that authority (*i*).

(*a*) *E.g.* in the case of machinery (s. 24).

(*b*) Paragraph (a) is a saving for *valuation* principles and privileges. (b) and (c) are savings for *rating* exemptions and privileges conferred by *local* Acts or Orders.

In view of the terms of s. 2 (3) no saving is needed for any enactment which gives exemption in the case of poor rates such as, *e.g.*, the provisions relating to churches and chapels, and buildings of certain scientific societies.

(*c*) The principles upon which hereditaments are valued may be statutory principles such as those mentioned below; or they may be principles or practice not laid down by statute, but recognised by the courts as being permissible methods of estimating the rent which a hypothetical tenant may be expected to pay from year to year for a hereditament, *e.g.* valuation " on accounts " in the case of railways,

Note to Section 64.

gasworks, and other properties often spoken of as "public utility" undertakings; the distribution of values so calculated between the different areas into which such an undertaking often extends; the calculation of the "tenant's share" or tenant's capital (see hereon s. 24 (10)); valuation on the "contractor's basis" in another class of case; valuation on output or tonnage in the case of coal mines, etc.

Amongst statutory provisions are those contained in the Burial Act, 1855, s. 18, under which burial grounds acquired under the Burial Acts (but not Public Health Act cemeteries) are not to be assessed at any value higher than that of the land at the time of its acquisition; cf. Welsh Church Act, 1914, ss. 8, 24: in the Light Railways Act, 1896, s. 5 (1), under which the same privilege may be given for a term of years to a light railway: in many canal and some railway Acts, which give the same privilege in perpetuity: in the Telegraph Act, 1868, s. 22, under which certain property acquired by the Postmaster-General is to be rated at the original value of the land: in the Allotments Act, 1925, s. 10, under which where land becomes used for allotments the gross value is not to be increased for three years; in the Rating Act, 1874, with regard to the rating of woodlands, certain mines and sporting rights, and in the Advertising Stations (Rating) Act, 1889.

(*d*) Such privileges are common in local Acts and Provisional Orders extending boroughs and are sometimes found in Orders made by county councils for the constitution or extension of urban districts. As a rule the provision is to the effect that for a term of years the general district rate in the "added area" is not to exceed a fixed poundage, or is to be less by a certain amount in the pound than in the old area—usually the "difference" is made to decrease by stages until after a certain number of years it vanishes.

Such privileges are preserved, whether created by local Act (which includes Provisional Order, see s. 68 (1)) or by an Order.

See also the proviso to this subsection.

(*e*) The commonest type of such privilege is the 75 per cent. given to agricultural land, railway lines, land covered by water, tithe, etc., by the Public Health Act, 1875, the Agricultural Rates Acts, 1896 and 1923, and the Tithe Rent Charge (Rates) Act, 1899. These are not preserved by this section—being conferred by public general Acts—but are preserved by s. 22 and Sched. II., effect being given to them by appropriate reductions in the valuation list.

There are, however, in existence some differential privileges of a somewhat similar character given by local Acts to other properties—*e.g.* to collieries. These are not covered by s. 22 and Sched. II. and are consequently saved by this section.

There are, also, it is believed, a few local Act exemptions from rates in respect of charitable institutions.

(*f*) Cf. for example, the Newcastle-upon-Tyne Corporation (Rates) Act, 1919, s. 10, which was recently before the courts in *Slaytor* v. *Newcastle-upon-Tyne Assessment Committee* (1925), 89 J. P. 191.

Under the Liverpool Corporation Act, 1921, s. 534, an occupier may deduct half the water rate from his rent.

(*g*) This is no doubt intended to make it clear that the Act does not by s. 1 (1) repeal the Public Health Act, 1875, s. 299, under which the Minister of Health may appoint a person to perform any duty of a defaulting authority, in which case such a person can levy rates to meet his expenses.

(*h*) Under s. 33 of the Highway Act, 1835, a person who is liable to repair some highway *ratione tenuræ* may be—but is not necessarily—exempt from such part of a poor rate or general district rate as is levied for highway purposes: cf. *Dalton Overseers* v. *N. E. R. Co.*, [1900] A. C. 345; 64 J. P. 612; *Ferrand* v. *Bingley U. D. C.*, [1903] 2 K. B. 445; 67 J. P. 370.

(*i*) Certain local Acts in giving differential rating provisions to added areas in respect of municipal and sanitary rates used expressions such as all rates which are "or shall be" leviable by the corporation: cf. the Hull Extension Act, 1882, s. 67, which was discussed in *Sutton Overseers* v. *N. E. R. Co.* (1886), 51 J. P. 165; and the Pontefract

Extension Act, 1875, s. 15. The draftsman, no doubt, never imagined that the parochial poor rate would become leviable by the corporation, but in the absence of such a provision as the present it might have been contended that the privilege had now been extended to such part of the general rate as represented the old poor rate and was not restricted to the part which represented the borough and general district rates.

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(2) For the purpose of securing the continued operation, notwithstanding the passing of this Act, of any such privilege or exemption as aforesaid—

(a) the rating authority of every area in which immediately before the passing of this Act any such privilege or exemption was in force shall, before the appointed day, submit to the Minister a scheme making provision, whether by deductions to be made from the net annual value or otherwise, for the purpose aforesaid ;

(b) if no such scheme is submitted by the rating authority before the appointed day, the Minister may himself make a scheme for the purpose aforesaid ;

(c) the provisions of paragraphs 2, 4, and 7 of Part III. of the Second Schedule to this Act shall apply for the purpose of schemes made under this subsection as if such schemes were special schemes within the meaning of the said Part III. ;

(d) subject to the foregoing provisions, a scheme duly approved or made by the Minister shall have effect as if enacted in this Act :

Provided that the rating authority and all persons interested in the hereditament may agree that the privilege or exemption shall be surrendered and extinguished in consideration of such payments as may be agreed between them.

It is not exactly clear how effect is to be given in future to the privileges and exemptions saved by sub-s. (1). Schemes are to be submitted for the purpose, and if objected to will require confirmation by Parliament, but it is left open whether the reliefs are in future to be given in the valuation list or otherwise. Probably the facts of each individual case will require consideration in order to determine the most convenient course.

Schemes are, of course, only required in respect of *rating* privileges, *i.e.* under sub-s. (1) (b) (c) (e), and not in respect of valuation privileges.

Under paragraph 2 of Sched. II., Part III. the schemes are provisional only, if objected to ; and under paragraph 7 they may be revised in the future.

This proviso may be useful as a means of getting rid of inconvenient and scattered exemptions, *e.g.* one Highway Act exemption in a district. A somewhat similar provision for getting rid of differential rating privileges on a comparatively large scale was included in the West Hartlepool Order of 1925 recently confirmed by Parliament.

(3) Where any hereditament is occupied by or on behalf of the Crown for public purposes—

(a) no gross value shall be determined or entered in the valuation list in respect of the hereditament ; and

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(b) if any contribution is made by the Crown in aid of rates in respect of that hereditament, there shall be entered in the valuation as representing the rateable value thereof the value upon which that contribution is computed, and the value so entered, or the amount of the contribution, as the case may be, shall be taken into account for the purpose of ascertaining totals or the proceeds of any rate, but the entry shall not affect any question as to contributions to be made by the Crown in respect of rates.

Gross values are of no practical use except as a step in the calculation of net annual value in certain cases.

As a general rule—subject to a few statutory exceptions—property occupied by or on behalf of the Crown for public purposes is not rateable. The Treasury, however, make a voluntary contribution in lieu of rates calculated on such assessment as they are willing to accept.

The value on which the contribution is calculated is to be entered in the rateable value column of the valuation list and taken into account in calculating totals, and the contribution is to be taken into account in calculating the proceeds of a rate. At present the value is included in the valuation list as a special item (Union Assessment Committee Act, 1860, s. 30), and is therefore taken into account in distributing union common charges; but there is no similar provision applicable to county charges, and, while some counties include the value in their county rate basis, others do not. Under the new precepting system, after 1929 this inequity will no longer exist.

(4) The Minister may make orders for the purpose of giving to the Universities of Oxford and Cambridge, or any other body which under any Act is entitled to special representation on any assessment committee, similar rights of representation on assessment committees constituted under this Act, and, so far as necessary for that purpose, may modify any provisions of this Act relating to the constitution of assessment committees.

The Oxford Incorporation includes most of the parishes lying within the city and the statutory parish comprising the university, colleges, and halls—the remaining city parishes being divided between two poor law unions. Under a Provisional Order of 1875 (confirmed by 38 & 39 Vict. c. clxviii.), the guardians of the Incorporation appoint an assessment committee consisting of ten members, of whom four must be guardians representing the university, colleges, and halls, three must be guardians representing the city council, and three must be guardians elected in the ordinary manner. As from 1st April, 1926, the parishes in the Incorporation (including the statutory parish) are to be amalgamated into a "parish of Oxford"; but this will not affect the position as regards the assessment committee.

Under a Provisional Order of 1889 (confirmed by 52 & 53 Vict. c. cxvi.), the assessment committee of the Cambridge Union (which is co-extensive with the borough and parish of Cambridge) consists of twelve members appointed by the guardians, four members appointed by the university, and eight members appointed by the borough council.

(5) Nothing in this Act shall affect the basis on which payments are made to the London County Council by any local or other authority outside London in respect of London main drainage charges, and accordingly in any Act or document relating to any such payments

references to annual value, rateable value, the county rate basis or standard, or any other value or basis shall be construed as references to the corresponding value as determined under this Act, or, if there is no such corresponding value, to the equivalent value, such equivalent value to be determined, in case of difference, by the Minister. Section 64.

The London County Council receive into their sewers sewage from non-metropolitan councils under a number of agreements which provide for payment by reference to various "values" or "standards." This subsection provides a method for construing such terms: see also s. 69 (2).

(6) Nothing in this Act shall affect the basis on which, or the manner in which, sums required for the purposes of the Metropolitan Police are raised.

The Metropolitan Police Rate is levied over a number of non-metropolitan areas by precepts, the county rate basis being the standard of apportionment. This subsection makes it clear that the *status quo* is preserved.

65. Notwithstanding anything in this Act, and without prejudice to the provisions of section thirty-seven of the Interpretation Act, 1889, it shall be lawful for every rating authority at any time after the commencement of this Act, and for every assessment committee at any time after the appointment of the committee, to exercise any powers or perform any duties vested in or imposed on them by this Act, other than any powers or duties to be transferred under this Act on the appointed day to the authority or committee from some other authority (*a*), and the guardians of unions, overseers and all assessment committees constituted under the Union Assessment Acts, 1862 to 1880 (*b*), and the officers of all such guardians, overseers and committees, shall give to rating authorities and to assessment committees any assistance and information which they may respectively require for the purpose of enabling them to discharge their functions as aforesaid. Exercise of powers by and assistance to new rating and assessment authorities.

(*a*) By s. 37 of the Interpretation Act, 1889, where an Act which is not to come into operation immediately upon the passing thereof "confers power to make any appointment, to make, grant or issue any instrument, that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or byelaws, to give notices, to prescribe forms or to do any other thing for the purpose of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation."

The present section is couched in considerably wider terms. Under it, for instance, an assessment committee can as soon as it is fully constituted appoint its representative to the county valuation committee under s. 18, and can proceed to discuss with the rating authorities within its area, and to decide (under s. 19) the dates on which particular valuation lists are to come into force. And, as soon as this point is decided, a rating authority, whose first new list is to come into force on 1st April, 1928, can send out notices calling for returns under s. 40, and proceed with the preparation of its draft list.

(*b*) Or under any local Act (s. 68 (3)).

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Power to modify local Acts.

66.—(1) The Minister may by order make such adaptations in the provisions of any local Act as may seem to him to be necessary in order to make those provisions conform with the provisions of this Act.

(2) Every order made under this section shall be laid before both Houses of Parliament forthwith, and if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such order is laid before it praying that the order may be annulled it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new order.

Certain provisions as to valuation and assessment in local Acts are repealed by s. 69 (1), and s. 2 (8) will impliedly repeal a number of local Act provisions as to rates: see also s. 11 (10). Unless, however, the intention is clear, a general Act does not impliedly repeal an earlier special Act—*generalia specialibus non derogant.*

An order under this section may, therefore, be useful in dealing with inconsistent provisions not clearly superseded which may be discovered in local Acts or Provisional Orders (s. 68 (1)).

Power to remove difficulties.

67.—(1) If any difficulty arises in connection with the application of this Act to any exceptional area, or the preparation of the first valuation list for any area, or otherwise in bringing into operation any of the provisions of this Act, the Minister may by order remove the difficulty or constitute any assessment committee, or declare any assessment committee to be duly constituted, or make any appointment, or do any other thing, which appears to him necessary or expedient for securing the due preparation of the list or for bringing the said provisions into operation, and any such order may modify the provisions of this Act so far as may appear to the Minister necessary or expedient for carrying the order into effect:

Provided that the Minister shall not exercise the powers conferred by this section after the thirty-first day of March, nineteen hundred and twenty-nine.

An order under this section for the "removal of difficulties" cannot be made after the 31st March, 1929.

"Exceptional areas" are defined in sub-s. (3).

(2) Every order made under this section shall be laid before both Houses of Parliament forthwith, and if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such order is laid before it praying that the order may be annulled it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new order.

(3) In this section the expression "exceptional area" includes any county district which extends into two or more counties or is administered by the council of another district, and any parish which extends into two or more counties or county districts, or which is not within the same district for municipal and sanitary purposes.

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There are ten rural districts which extend into more than one county, and also ten small rural districts the affairs of which are administered under the Local Government Act, 1894, s. 24 (5), by the council of an adjoining rural district in a different county.

The parish of Deeping St. Nicholas is, for the purpose of county contributions, divided between the counties of Holland and Kesteven (see *A.-G.* v. *Deeping Overseers* (1893), 62 L. J. Ch. 188).

Part of the parish of Chatham in the Medway Union forms the borough of Chatham; the other part is within the borough of Rochester, which comprises also five other parishes, of which two are in the Strood Union and three in the Medway Union.

The borough of Folkestone comprises two parishes, Folkestone Town and Folkestone-next-Sandgate; but the latter and the parish of Sandgate together constitute the Sandgate urban district. At present in Folkestone Town the overseers levy a consolidated rate (representing poor rate, borough rate, and general district rate); in the other borough parish the overseers levy a poor rate out of which they pay the borough rate, while the Sandgate U. D. C. levy a general district rate.

It would obviously be impossible in the Act itself to make satisfactory provision for such areas as are referred to above; and, therefore, the question of adapting the Act to meet their particular requirements is left to be dealt with by Order.

Definitions.

68.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"Rating area" means the area of a rating authority:

"Urban rating area" means a rating area being a county borough or an urban district:

"Rural rating area" means a rating area being a rural district:

"Assessment committee" means the assessment committee constituted under this Act:

"Valuation list" means the valuation list made under this Act:

"Rate" means a rate the proceeds of which are applicable to local purposes of a public nature and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined (*a*), but does not include—

(a) any rate which is assessed under any commission of sewers, or in respect of any drainage, wall, embankment, or other work for the benefit of the land (*b*); or

(b) any rate of the description commonly known as a church rate, a tithe rate, or a rector's rate, or any other rate of a similar character (*c*); or

(c) any rate which is leviable by the conservators of a common (*d*); or

(d) any rate payable by consumers for a supply of water (*e*); or

Section 68.

(e) any rate of the description commonly known as a garden rate or square rate, if levied by any persons other than a rating authority (*f*) :

(*a*) The definition is substantially that contained in the Local Loans Act, 1875, s. 34, and frequently used in statutes. The concluding words are probably unnecessary for the purposes of this Act which contains distinct provisions as to "precepts."

(*b*) Many sewers rates are "acreage" rates; but in any case, even when they are levied on "the yearly value of property," they are not affected by the Act. See also the proviso, *infra*.

(*c*) Such rates are not uncommon in London, and may exist in other places. They represent, in effect, a local Act bargain by which tithe rentcharge was commuted for a rate.

(*d*) This exclusion does not, of course, apply in any way to councils who are conservators of a common, and whose expenses as conservators are made part of their Public Health Act expenses under the Commons Act, 1899, s. 11.

(*e*) *I.e.* water rates which are in their nature a charge for a commodity supplied. A general district, or special expenses, rate does not cease to be a "rate" within the meaning of the Act merely because in part or in whole it is a levy (on consumers and non-consumers alike) to make good a deficiency in respect of a water undertaking.

(*f*) There are a number of such garden rates in London levied usually by the local authority as an additional item of their general rate, but sometimes by trustees, under the Town Gardens Protection Act, 1863, or local Acts, supplemented by the rating schemes made under the London Government Act, 1899.

Any such rate outside London will only be within the Act if it is levied by the rating authority, and if it is assessed on the yearly value of property—as distinct from a fixed rate of so much per house irrespective of value.

Provided that nothing contained in the foregoing definition of the expression "rate" shall affect the construction of the expression "usual tenant's rates" in this Act, and that expression shall be construed as if this Act had not passed.

But for this proviso, it might have been argued that a sewers rate, not being a rate within the meaning of the Act, was not a "usual tenant's rate" for the purposes of the definition of "gross value."

"Ratepayer" means every person who is liable to any rate in respect of property entered in any valuation list :

It includes, therefore, an owner who is rated under s. 11 (1) or has agreed with the rating authority to pay the rates under s. 11 (2); whether it includes an owner who has merely agreed with his tenant to pay the rates is doubtful. For the purposes of s. 60 a special definition of "ratepayer" is contained in sub-s. (4) thereof.

"Owner" means any person for the time being receiving the rack-rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive that rent if the lands or premises were let at a rack-rent :

This is the definition contained in s. 4 of the Public Health Act, 1875. For the purposes of s. 11 (rating of owners, etc.) a special definition is contained in sub-s. (11) thereof.

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"Gross value" means the rent at which a hereditament might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes, and tithe rentcharge, if any, and if the landlord undertook to bear the cost of the repairs and insurance, and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent:

Provided that, in estimating the annual rental value of a hereditament to a tenant, no account shall be taken of the value of any services which the landlord renders, or procures to be rendered, to the tenant (either alone or in common with other tenants of the landlord) other than the provision of, or repairs to, or maintenance of, the hereditament:

This is, in effect, the existing definition applicable outside London (see Parochial Assessments Act, 1836, s. 1; Union Assessment Committee Act, 1862, s. 15).

As to the calculation of "net annual value"—and the meaning of that term—see s. 22 (1).

As to "usual tenant's rates," see *Slaytor* v. *Newcastle-upon-Tyne A. C.* (1925), 42 T. L. R. 47.

The proviso would appear to add nothing to the existing law. It is obviously intended to apply to flats and suites of offices, where the tenant, in consideration of his rent, gets not merely his flat or office, but also a share in the services of porters, liftmen, and possibly gardeners, has the staircase and passages swept and cleaned for him, and sometimes has the rates paid for him. Obviously, if the rent paid is to be used as a guide to gross value, the amount included in it in respect of such services should be deducted.

"Hereditament" means any lands, tenements, hereditaments or property which are or may become liable to any rate in respect of which the valuation list is by this Act made conclusive:

This definition creates a little difficulty. Under s. 2 (9) the rate book is to include every hereditament whether liable to be rated or not. This being so, the words here used "which are or may become liable" cannot be construed in their widest sense. Anything might be made rateable by Parliament; but it cannot be intended that persons making out a rate are to speculate as to what new species of property might be so made liable, and to include, *e.g.*, site values, land values, ungotten minerals, etc. The term must, it would seem, be limited to those kinds of property which are now recognised by the law as rateable generally, though in particular circumstances exempt. Probably it should be taken as meaning property which is in fact at the moment rateable, or might become so, without the passing of any new statute, by reason of it becoming beneficially occupied (if empty) or occupied by a different person (*e.g.* by a subject), or used for different purposes.

If this is correct, then a rate book should apparently include property occupied by or on behalf of the Crown, for it might become let to a subject; chapels, museums, etc., for they might become used for other purposes; but not consecrated churches, or highways, for apart from an Act of Parliament rateable occupation is impossible.

See also as to Crown property, s. 64 (3).

"Agricultural land" means agricultural land within the meaning of the Agricultural Rates Acts, 1896 and 1923:

The original definition in the Agricultural Rates Act, 1896, defines *Agricultural land* as—"means any land used as arable, meadow or pasture ground only, cottage gardens exceeding one quarter of an acre, market gardens, nursery grounds, orchards or allotments; but does not include land occupied together with a house as a park,

Note to Section 68.

gardens, other than as aforesaid, pleasure grounds, or any land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse." By the Agricultural Rates Act, 1923, s. 16, any "allotment garden" within the meaning of the Allotments Act, 1922, except a cottage garden not exceeding a quarter of an acre, is also to be agricultural land for the purpose of the Acts of 1896 and 1923.

The definition of "allotment garden" referred to is "an allotment not exceeding forty poles in extent which is wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family."

"Woodlands" includes land used for a plantation or a wood, or for the growth of saleable underwood or for both such purposes, and not subject to any right of common:

This in effect reproduces the existing definition contained in the Rating Act, 1874, ss. 3 (1), 12.

"Financial year" means the year ending on the thirty-first day of March:

"The Minister" means the Minister of Health:

"Local authority" means any body having power to levy a rate or to issue a precept to a rating authority:

"Clerk," in relation to any authority or body, includes any officer of the authority or body authorised by them to act on their behalf either generally or in relation to any particular matter:

"The appointed day" means the first day of April, nineteen hundred and twenty-seven:

"Date of the first new valuation" means in relation to any rating area or part of a rating area the date on which the first new valuation list made under Part II. of this Act for that area or part comes into operation:

"Local Act" includes a Provisional Order confirmed by Act of Parliament.

54 & 55 Vict. c. 8.

(2) In the case of tithe rentcharge as defined in the Tithe Act, 1891, references in this Act to an occupier shall be construed as references to an owner as so defined.

The relief given in respect of rates upon tithe by the Public Health Act, 1875, ss. 211, 230, will continue to be given under this Act—in a rural area, in the collection of a special rate (s. 3 (2)), and in an urban area by the equated relief; but, as from the appointed day under the Tithe Act, 1925, the Surveyor of Taxes will pay any rate assessed upon tithe dealt with by that Act, instead of only a portion thereof as now (*ibid.* s. 7); and the Ecclesiastical Tithe Rent Charge (Rates) Acts, 1920 and 1922, will be repealed.

(3) References in this Act to assessment committees constituted under the Union Assessment Acts, 1862 to 1880, shall be construed as including references to assessment committees constituted under any local Act.

(4) In this and every other Act, whether passed before or after this Act, the expression "parish" shall, unless the contrary intention appears and subject to any alteration of area made on or after the appointed day by or in pursuance of any Act, mean a place for which immediately before the appointed day a separate poor rate was or

could be made or a separate overseer was or could be appointed, and in this Act also includes, unless the context otherwise requires, any part of a parish being either a contributory place or an area otherwise subject to separate or differential rating. Section 68.

According to the existing definition in the Interpretation Act, 1889, s. 5, "parish" means a place for which a separate poor rate is or can be made or for which a separate overseer is or can be appointed. The abolition of overseers and of parochial rating render necessary the provision of another definition. All existing parishes are to remain parishes till altered by or under some statute.

69.—(1) The enactments mentioned in the Eighth Schedule of this Act shall be repealed (*a*) to the extent specified in the third column of that Schedule, and so much of any other Act, whether public or local (*b*) and personal, as authorises any valuation of a hereditament to be made for the purposes of any rate in respect of which the valuation list is by this Act made conclusive, or any assessment of any such rate to be made except on the basis of that valuation list, shall also be repealed. Repeal, construction of references, &c.

(*a*) See sub-s. (4) as to the date from which this section operates.

As the Act does not apply to London (or the Isles of Scilly), the inclusion in Sched. VIII. of an enactment which now applies to London (or those Isles) will not prevent it continuing to so apply.

(*b*) These words will repeal any provisions for special valuations in respect of, *e.g.*, Improvement Act rates.

(2) References in any Act or document to any rate in lieu of which a general rate under this Act is levied or to any rate in lieu of which a special rate under this Act is levied shall, unless the context otherwise requires and subject as hereinafter provided, be construed as references respectively to the general rate and the special rate :

Provided that for the purposes of the Agricultural Rates Acts, 1896 and 1923, and the Tithe Rentcharge (Rates) Act, 1899, the rates in respect of which relief is given under those Acts shall in a rural district be taken to be the general rate, and in any other district be taken to be such part of the general rate levied for the district as is estimated by the Minister to be levied in substitution for the rates in respect of which such relief was given at the date of the passing of this Act, and for the purpose of the foregoing provision a general rate shall be taken to include any amount required to be levied together with and as an additional item of the general rate : 62 & 63 Vict. c. 17.

This proviso is necessary for the purpose of calculating certain Government grants under the Acts referred to. Such grants are now given only in respect of certain of the rates which are to be consolidated under the Act ; and for the purpose of calculating them in the future the general rate in urban rating areas will have to be actually dissected, or an agreed percentage of it (possibly that fixed under Sched. II., Parts II. and III.) will have to be taken. In rural districts no complication arises as the general rate there is in effect a poor rate—in respect of which grants are payable now. No grant will be payable in respect of the new relief to agricultural buildings.

References in any Act or document to gross value or gross estimated rental or to net annual value or rateable value as determined by valuation lists made under the Union Assessment Acts, 1862 to 1880, or as shown in, or ascertained in accordance with, the Acts relating to the

Section 69.

basis or standard of county rates, shall, unless the context otherwise requires, be construed as references to gross value or net annual value, as the case may be, as determined under this Act :

The present "gross value" (or "gross estimated rental") corresponds to the new "gross value" (see definition in s. 68 (1)); the present "net annual value" (or "rateable value") corresponds to the new "net annual value" (s. 22 (1) (a) (b)). The new "rateable value," of course, is not necessarily the same as the old "rateable value" (s. 22 (1) (c)).

References in any Act or document to assessable value shall—

(a) where the term is used in connection with special expenses rates, be construed as references to the value on which a special rate under this Act is chargeable ;

(b) where the term is used in connection with or in relation to the Agricultural Rates Acts, 1896 and 1923, be construed as references to net annual value reduced by fifty per cent., or, in the case of reduced assessable value, by seventy-five per cent., of the net annual value of agricultural land ;

(c) in any other case (except where the term is used in relation to income-tax), be construed as references to rateable value as determined under this Act :

"Assessable value" in connection with special expenses rates in *rural* parishes under the Public Health Act, 1875, is the net annual value, less 75 per cent. in the case of certain relieved properties. A special rate is to be levied (s. 3 (2)) on rateable value (which will allow the 75 per cent. relief given to agricultural land and buildings in *all* areas) further reduced by the 75 per cent. relief given (in collection of the rate) to railway lines, etc.

For the purposes of the Agricultural Rates Acts "assessable value" and "reduced assessable value" now mean net annual value reduced in the one case by 50 per cent. and in the other by 75 per cent. of the net annual value of agricultural land.

In these "other" cases the correspondence will not be exact, for the new rateable value will be reduced by allowances representing certain reliefs, which at present are given in the collection of the rate.

References in any Act or document to the assessment committee or to the valuation list, or supplemental list, under the Union Assessment Acts, 1862 to 1880, shall, unless the context otherwise requires, be construed as references to the assessment committee under this Act, and the valuation list under this Act :

Any document referring to any enactment hereby repealed shall, unless the context otherwise requires, be construed to refer to this Act or to the corresponding enactment of this Act.

(3) During the period between the appointed day and the date of the first new valuation the assessment committee for any assessment area and the rating authority for any rating area shall in relation to valuation lists for any parishes within their area, exercise respectively all such powers and perform all such duties as might have been exercised

or performed by an assessment committee constituted under the Union Assessment Acts, 1862 to 1880, or by overseers of the poor. Section 69.

During the interval the new assessment committees are to hear under the existing law objections to valuation lists "for parishes," *i.e.* lists under the Union Assessment Acts; and the rating authority are to perform the duties of overseers under those Acts, *e.g.* in preparing supplemental lists. If in any case a new list is in course of preparation under the existing law, then after the appointed day the new committee and the rating authority could, if they thought fit, proceed with its making, deposit, and revision.

(4) This section shall come into operation on such date as may be fixed by the Minister, and the Minister may fix different dates for different purposes and in relation to different areas.

This provision—somewhat similar to that contained in s. 27 (2) of the Education Act, 1902—was probably considered desirable because some of the statutes to be repealed must continue in operation longer than others, whilst in some cases a statute will be required for a year longer in some urban rating areas than it will in others, according to the date fixed locally for the first new valuation list.

70.—(1) This Act shall not extend to Scotland, Northern Ireland or the administrative county of London. Extent and short title.

The existing metropolitan valuation code, which differs in certain important details from the existing provincial code, is contained in the Valuation (Metropolis) Act, 1869, and the Valuation (Metropolis) Amendment Acts, 1884 and 1925. It was at one time intended that the greater part of the Rating and Valuation Act, 1925, should apply (with modifications) to London, and that most of the provisions of the Acts of 1869 and 1884 should be repealed; but upon the report stage of the Bill in the House of Commons, London was excluded, on the understanding that, if possible, another Bill dealing with the Metropolis alone should be introduced and passed in time for the next Quinquennial Valuation due in 1931.

(2) The Minister may by order direct that this Act shall, subject to such exceptions, adaptations and modifications, if any, as may be specified in the order, apply to the Isles of Scilly, but except as so applied this Act shall not apply to the said isles.

The Minister may by order from time to time amend any order previously made under this subsection and may by any order made under this subsection amend or repeal any provisions contained in the order relating to the Isles of Scilly, which was confirmed by the Local Government Board's Provisional Order Confirmation (No. 6) Act, 1890. 53 & 54 Vict. c. clxxvi.

As to the administration of the Isles of Scilly, reference should be made, if necessary, to the Isles of Scilly Order, 1890, made under s. 49 of the Local Government Act, 1888, and confirmed by 53 & 54 Vict. c. clxxvi. No Order applying to the islands the Local Government Act, 1894, has ever been made under *ibid.* s. 74; there are, therefore, no parish meetings or parish councils. There is no union or board of guardians, each parish maintaining its own poor, and being also a "highway parish."

There are five inhabited islands each of which (with certain adjacent islands) forms a parish. Each parish has an "open" vestry, and the largest (St. Mary's) has also a select vestry. A council "the council of the Isles of Scilly"—consisting

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of a non-elected chairman, four aldermen and twenty councillors representing the five parishes, act as rural sanitary authority and highway authority with wide powers of delegation to parochial committees.

The council issue precepts for their expenses to the overseers of the different parishes who are elected annually by the vestry. In St. Mary's the select vestry administer poor relief and maintain a poor-house; in the other parishes the overseers relieve the poor. The council appoint an assessment committee from their own members, and appeals against poor rates on questions of value are determined by special sessions, from whom an appeal lies to the Quarter Sessions of Cornwall.

(3) This Act may be cited as the Rating and Valuation Act, 1925.

SCHEDULES.

Section 17.

SCHEDULE I.

PROVISIONS WITH RESPECT TO ASSESSMENT COMMITTEES.

[With regard to this schedule generally reference may be made, if necessary, to the notes to the somewhat similar provisions of Sched. I. to the Public Health Act, 1875, in vol. i. of Lumley's Public Health Acts.]

1. Subject to the provisions of this Act, the quorum, proceedings and place of meeting of an assessment committee shall be such as the committee determine, and meetings of the committee may be held at different places from time to time as the committee think proper having regard to the public convenience:

Provided that—

(a) in the case of an assessment committee for an assessment area formed by the combination of two or more rating areas the place of meeting of the committee shall be such place or places, as is, or are, fixed in that behalf by or under the scheme constituting the assessment area; and

(b) the quorum shall not in any case be less than three.

If the assessment area comprises only one rating area, it is unnecessary for the scheme to mention a place of meeting. In other cases, the scheme should apparently make some provision, either by expressly authorising the committee to fix a place or places, or by fixing one or two principal places of meeting and "such other places as the committee may from time to time determine."

2. The chairman at any meeting of the assessment committee shall, in case of an equal division of votes, have a second or casting vote.

3. The chairman at any meeting of the assessment committee may, with the consent of the committee, adjourn the meeting from time to time as may be thought fit, and may postpone the hearing or further hearing and determination of any objection.

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4. On a casual vacancy occurring in an assessment committee by reason of the death, resignation, disqualification of a member, or otherwise the authority by whom that member was appointed or nominated shall appoint or nominate another person in his place, and the person so appointed or nominated shall hold office until the time when the person in whose place he is appointed or nominated would regularly have gone out of office.

5. The proceedings of an assessment committee shall not be invalidated by any vacancy among its members, or by any defect in the election, appointment or qualification of any member thereof.

See also Rule 8 and ss. 28 (3), 44.

6. The minutes of the proceedings of an assessment committee shall be kept in a book provided for that purpose, and a minute of those proceedings signed at the same or next subsequent meeting of the committee by the person acting as chairman at the meeting at which the minute is signed, shall be received in evidence without further proof.

I.e. received as an authentic minute, but not as conclusive evidence of the facts stated therein.

7. Every assessment committee shall in the month of April in every year send a report in the prescribed form of their proceedings during the last preceding year to every local authority represented on the committee, to the Minister, and to the Central Valuation Committee.

"Prescribed form": *i.e.* under s. 58.

8. Until the contrary is proved, an assessment committee shall be deemed to have been duly constituted and to have had power to deal with any matters referred to in its minutes.

"Duly constituted" presumably refers to the original constitution of the assessment area and a committee therefor.

See also Rule 5 and ss. 28 (3), 44.

9. An assessment committee may sue and be sued in the name of their clerk, and an action by or against an assessment committee shall not abate by the death or removal of the clerk, but shall continue as if the clerk for the time being were the plaintiff or defendant therein.

Cf. a similar provision in the Lunacy Act, 1890, s. 176, as to actions against a visiting committee, who, like an assessment committee under this Act, are not incorporated.

10. The term of office of each member of an assessment committee shall be such period not exceeding five years as the body of persons by whom that member is appointed may determine, but a member of the committee may resign his office.

The term of office is to be fixed by the "appointing" body even where another body "nominates."

11. A member of an assessment committee shall not be qualified to act on the hearing or determination of or otherwise in connection with

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any matter relating to any hereditament in which he is interested as owner, occupier or otherwise.

This rule appears to apply only to personal interest, at any rate in cases to which s. 63 (interest in municipal property not to disqualify) applies—see note to that section. Even if an interested member acts in contravention of this rule, it is doubtful whether the decision of the committee would be invalidated, for they are an administrative body rather than a judicial tribunal—cf. Rule 5, *ante*, and *Murray* v. *Epsom L. B.*, [1897] 1 Ch. 35; 61 J. P. 71.

12. No person who is a member of any committee to which the duties of the rating authority with respect to the preparation of the valuation list are delegated shall be qualified for appointment as a member of the assessment committee, and no authority shall appoint or nominate as its representative on an assessment committee any person who is an officer of the authority, and subsection (1) of section forty-six of the Local Government Act, 1894 (which disqualifies certain persons for membership of the council of a county district), shall apply as if for the references therein to the council of a county district there were substituted references to the assessment committee.

Section 46 (1) of the Local Government Act, 1894 (see notes thereto in Lumley's Public Health Acts, vol. i.), is as follows:

"A person shall be disqualified for being elected or being a member or chairman of a council of a parish or of a district other than a borough or of a board of guardians if he

(a) is an infant or an alien; or

(b) has within twelve months before his election, or since his election, received union or parochial relief; or

(c) has, within five years before his election or since his election, been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid been adjudged bankrupt, or made a composition or arrangement with his creditors; or

(d) holds any paid office under the parish council or district council or board of guardians, as the case may be; or

(e) is concerned in any bargain or contract entered into with the council or board, or participates in the profit of any such bargain or contract or of any work done under the authority of the council or board."

It may be noted that sub-s. (2) is not applied; nor is any provision made as to the action to be taken if a member becomes disqualified. Presumably the committee—after hearing the member believed to be disqualified—must proceed under Rule 4, and request the appropriate authority to appoint a new member.

13. No member of the assessment committee shall receive any remuneration or other like payment in respect of his services as a member of the assessment committee.

This rule will not preclude him from accepting under s. 53 (2) out-of-pocket expenses as distinct from remuneration or payment for services.

Sections 9, 22 and 64.

SCHEDULE II.

ASCERTAINMENT OF RATEABLE VALUE.

PART I.

Deductions from Gross Value.

(1) Class of Hereditaments.	(2) Amount of Deduction.
(1) Houses and buildings without land, other than gardens, where the gross value does not exceed 10*l.*	An amount equal to 40 per cent. of the gross value.
(2) Houses and buildings without land, other than gardens, where the gross value exceeds 10*l.* but does not exceed 20*l.*	4*l.* or an amount equal to 33⅓ per cent. of the gross value, whichever is the greater.
(3) Houses and buildings without land, other than gardens, where the gross value exceeds 20*l.* but does not exceed 40*l.*	7*l.* or an amount equal to 25 per cent. of the gross value, whichever is the greater.
(4) Houses and buildings without land, other than gardens, where the gross value exceeds 40*l.* but does not exceed 100*l.*	10*l.* or an amount equal to 20 per cent. of the gross value, whichever is greater.
(5) Houses and buildings without land, other than gardens, where the gross value exceeds 100*l.*	20*l.* together with an amount equal to 16⅔ per cent. of the amount by which the gross value exceeds 100*l.*
(6) Land (other than agricultural land) with buildings valued together therewith as one hereditament.	An amount equal to 10 per cent. of the gross value.
(7) Land (other than agricultural land) without buildings.	An amount equal to 5 per cent. of the gross value.
(8) Agricultural land	An amount equal to 5 per cent. of the gross value.

NOTE.—For the purposes of this Part of this Schedule the expression "houses and buildings" does not include mills, manufactories, or premises of a similar character used wholly or mainly for industrial purposes or hereditaments valued as part of any railway, dock, canal, gas, water, electricity, or other public utility undertaking.

See notes to s. 22, *ante*, p. 53.

Hitherto, outside London, there has been no statutory scale of deductions to be made from gross value in order to arrive at net annual value. The Valuation (Metropolis) Act, 1869, contained a scale of *maximum* deductions, and the amending Act of 1925 amended such scale. The Act of 1925 is a temporary one, applying only to the 1926 valuation list, and presumably further provisions will be made as to London before the next quinquennial list falls to be prepared.

The net annual value of premises mentioned in the footnote to Part I. will be estimated in accordance with s. 22 (1) (b)—*i.e.* without reference to a gross value.

Sched. II.

PART II.

Deductions to be made from Net Annual Value.

(1) Class of Hereditaments.	(2) Amount of Deduction.
(1) Agricultural land	(1) Seventy-five per cent. of the net annual value.
(2) Buildings (other than dwelling-houses) occupied together with agricultural land or being or forming part of a market garden, and in either case used solely in connection with agricultural operations thereon.	(2) Seventy-five per cent. of the net annual value.
(3) Tithes, tithe commutation rentcharge, and other payments in lieu of tithe, issuing out of any land, and any land used as a railway constructed under the powers of any Act for public conveyance or as a canal or towing-path for a canal, any land covered with water, and any woodlands— (a) if the land is situate in a county borough or urban district in which a consolidation of rates takes effect by virtue of this Act: (b) if the land is situate in any other county borough or urban district, being a borough or district in which a consolidation of rates was authorised by a local Act passed before the commencement of this Act.	(3*a*) Subject to the provisions of Part III. of this Schedule, such percentage of the net annual value as corresponds with the average relief from rating to which, in the part of the rating area in which the land is situate, occupiers of that class of hereditaments were entitled, otherwise than under any temporary Act, between the first day of April, nineteen hundred and fourteen, and the thirty-first day of March, nineteen hundred and twenty-four. (3*b*) Such percentage of the net annual value as corresponds with the percentage of the relief from rating given by the local Act.

As to these deductions, see s. 22 (1) (c) and notes, p. 53, *ante*.

See s. 68 (1) for definitions of "agricultural land" and "woodlands."

(1) As agricultural land pays only one-fourth of *every* rate at present, the rateable value on which it will pay all rates is to be one-fourth only of its net annual value.

(2) The relief given here is a new one, and will not operate in any area before the first new list comes into force. The buildings referred to—farm buildings and market gardeners' greenhouses and other buildings—are assimilated to agricultural land. No Government grant is given in respect of any part of the relief given to these buildings. In the case of agricultural land, the grant will continue to be given in respect of the general rate in a rural area and of such part of it in an urban area as corresponds to the existing rates which now carry a grant (s. 69 (2)).

(3) This applies to urban rating areas only. The hereditaments mentioned are those which under the Public Health Act (or some other Act) pay a fraction only of *certain* rates. As explained in the notes to s. 2, *ante*, p. 6, an equated percentage of deduction has to be applied in their case.

Sub-paragraph (b) deals with the case where a complete consolidation of rates has been authorised by a local Act passed before the commencement of this Act; in such a case the percentage of relief fixed by the local Act is not to be disturbed. If the local Act provides that the relieved properties shall pay 55 per cent. only of the consolidated (or general) rate, the deduction to be made under s. 22 (1) (c), and this Part of Sched. II. will be 100 — 55, *i.e.* 45 per cent. "Local Act" here clearly

cannot include a Provisional Order; for a Provisional Order consolidation is partial only and leaves two rates existing side by side; in such a case a consolidation takes place "by virtue of this Act," and sub-paragraph (a) applies.

In the case of sub-paragraph (a) the percentage has to be fixed by a scheme (Part III., 1); but in the majority of cases its calculation is a mere matter of arithmetic. The aggregate poundage of the rates paid in full, and the aggregate poundage of the rates paid in part, must be ascertained over the period of ten years mentioned in 3 (a), *i.e.* in the ordinary urban area the aggregate poundage (P) of the poor rate and the aggregate poundage (D) of the general district rate. Then $\frac{P+\frac{D}{4}}{P+D} \times 100$ represents the percentage of the consolidated rate which the relieved properties ought to pay if their relief was still to be given in the collection of the rate. The difference between that percentage and 100 represents the "corresponding" deduction to be made from net annual value, when the full rate is to be paid.

There are, however, certain cases where exceptional treatment is permissible or necessary:—(1) In any case the "nearest integral amount" may be taken (see Part III., 6); (2) where the figures for different parts of one rating area give different results, one percentage may be fixed for the whole area (see Part III. (1) (b)); and (3) special provisions are made for cases where an area has been altered during the ten years or where the average figure is vitiated by the operation of temporary differential rating (see Part III. (1) (a)).

PART III.

Schemes for determining certain deductions in urban areas.

1. For the purpose of determining the amount of the deductions to be allowed in respect of the hereditaments belonging to class (3*a*) mentioned in Part II. of this Schedule, the rating authority of every county borough or urban district shall, before the appointed day, submit to the Minister a scheme with respect to the said deductions, and the deductions to be allowed as aforesaid shall, if the scheme is approved by the Minister, be such deductions as are specified in the scheme, or, if the scheme is not approved by the Minister, or if no scheme is submitted by the rating authority before the appointed day, be such as the Minister may direct:

An ordinary scheme, *i.e.* a mere mathematical calculation, does not require submission to Parliament. If any error was subsequently discovered in it, it could be revised under paragraph 7. Under paragraph 6 the Minister can reduce or increase the ascertained figure to the nearest integral amount.

Provided that—

(a) Where either—

(i) differential rating provisions not of a permanent character were in operation in the county borough or urban district during the period of ten years beginning on the first day of April, nineteen hundred and fourteen, or during some part of that period; or

(ii) the county borough or urban district was created or extended at some time between the said first day of April and the appointed day,

Sched. II.

the scheme to be submitted under this Part of this Schedule shall be a special scheme, in the making of which the basis prescribed by Part II. of this Schedule for determining the amount of the said deductions shall be applied with such modifications and adaptations as in the special circumstances of the case will secure a fair and equitable percentage of deduction;

(a) (i) In many boroughs all property in some area (usually a recently added area) enjoys a temporary relief from the general district rate—*e.g.* for (say) ten years the district rate in that area is to be less by one shilling than in the rest of the borough. Such a differential rating privilege has an effect upon the relative poundages of the poor rate and district rate in the two parts of the borough; for what would otherwise be a general district rate of 5*s.* all over the borough becomes perhaps a rate of 5*s.* 3*d.* in one part and 4*s.* 3*d.* in the other.

The ten years' average is taken as an indication of the probable respective "weights" of the two rates in the future; and, obviously, temporary disturbing factors which have already ceased, or will shortly cease, to operate ought to be disregarded or discounted. Hence it is provided that a "special" scheme shall be made where temporary differential rating provisions have been in force during any portion of the ten years.

(ii) If a rural parish, or part thereof, has been added to a borough or urban district during the ten years, it will not be possible to take a ten years' average, because there will not have been a general district rate in the added area for the whole of the ten years. In this case, too, a special scheme must be made.

A special scheme (see paragraph 2) requires confirmation by Parliament, if any objection to it is maintained. It is to be framed on the same basis as an ordinary scheme with modifications and adaptations.

Presumably, the date to be taken is the date when the extension (or creation) takes effect; not the date of the Act or Order.

(b) Where the average relief from rating to which occupiers of hereditaments of the classes in question in any rating area were entitled was not the same in all parts of that area, the scheme or special scheme may nevertheless make provision, on such basis as appears equitable, for a uniform percentage of deduction throughout the area.

(b) Even where there is no such disturbing factor as differential rating, the figures for different parishes in an urban area will seldom bring out exactly the same percentages. One parish may have special parochial expenses, *e.g.* in respect of a burial ground; or two parishes may be in different unions; and, apart from such obvious causes as these, greater or less economy in rate collection in itself will presumably be sufficient to cause a variation.

In the interests of administration it is desirable that so far as possible there should be one percentage for the whole area; and, therefore, provision is made for fixing a uniform percentage. This may be done in either a special scheme or in an ordinary scheme. In the case, at any rate, of the latter, which will not require the approval of Parliament even if objected to, it seems improbable that a uniform percentage would be fixed where the difference between the percentages as worked out for different parishes was substantial.

2. A special scheme submitted as aforesaid may be approved by the Minister, either with or without modification, and the Minister shall, before approving such a scheme, publish, in such manner as he thinks proper, notice of his intention to approve the scheme and of his proposed modifications, if any, and if any person, being a person who will in the

opinion of the Minister be affected by the special scheme, gives notice in writing to the Minister that he objects to it, the Minister before approving it shall, unless the objection is withdrawn, direct a local inquiry to be held for the purpose of determining whether the scheme ought or ought not to be approved, and if the Minister after receiving the report of the inquiry is of opinion that the scheme ought to be approved, either as originally submitted to him or with any modifications, he may approve the scheme accordingly, and any scheme so approved shall, unless the objection is withdrawn, be a provisional scheme only and shall have no effect unless and until it is confirmed by Act of Parliament.

This paragraph deals with the procedure for making special schemes under paragraph 1, and also under s. 64 (2).

As to local inquiries, see s. 61.

3. Where by any order a county borough or urban district is created or extended on or after the appointed day, there shall be included in the order such provisions as may be necessary for determining the amount of the deduction which is to be made from net annual value in respect of hereditaments included in Class (3) of the hereditaments specified in the first column of Part II. of this Schedule, and any authority making or confirming such an order shall, before so doing, consider any representations which may be made to them by persons interested with respect to the provisions for determining the amount of the deduction.

Presumably, the date to be taken is the date when the extension (or creation) takes effect, not the date of the Act or Order.

Changes of area *before* the appointed day will be dealt with by means of a special scheme under paragraph 1 (a) (ii). In the case of changes of area on or after that date made by Order, the Order (of the Minister or county council, as the case may be), will make any necessary provision as to the deductions to be made in any area affected.

4. The Minister may make regulations with respect to the preparation and submission of schemes under this Schedule and matters incidental thereto.

5. The council of every county borough and urban district shall, if so required by the Minister, prepare and transmit to the Minister not later than the appointed day a return as to the poundage of the several rates levied in the area of the council during the period between the first day of April, nineteen hundred and fourteen, and the thirty-first day of March, nineteen hundred and twenty-four.

6. The Minister may by order direct, in any cases where it appears to him to be expedient so to do, that the percentage of any deduction under Part II. of this Schedule shall be increased or reduced to the nearest integral amount.

7. The Minister may, on an application in that behalf made by any person affected by a scheme under this Schedule and after publishing notice of the proposed order in such manner as he thinks proper, by order vary or amend the scheme as he thinks proper :

Provided that if any person, being a person who will in the opinion of the Minister be affected by the proposed order, gives notice in writing to the Minister that he objects to the proposed order, the Minister shall,

Sched. II. before making the order, direct a local inquiry to be held for the purpose of determining whether the order ought or ought not to be made, and if the Minister after receiving the report of the inquiry is of opinion that the order ought to be made either as originally proposed by him or with any variations or modifications, he may make the order accordingly, but any order so made shall, unless the objection is withdrawn, be a provisional order only and shall not be of any validity unless and until it has been confirmed by Act of Parliament.

The Minister may amend a scheme if he thinks fit, but if the amendment is objected to, the approval of Parliament will be necessary. If, however, the Minister decides not to comply with an application for amendment, his decision is apparently final.

As to local inquiries, see s. 61.

Section 24.

SCHEDULE III.

CLASSES OF MACHINERY AND PLANT TO BE DEEMED TO BE PART OF THE HEREDITAMENT.

The Schedule describes the classes of machinery and plant which are to be deemed to be a part of the hereditament, and therefore rateable in full; all other plant and machinery is to be entirely disregarded in valuing the hereditament (s. 24 (1)).

It will be remembered, however, that decisions as to the rateability or non-rateability of plant or machinery are not to be given upon the wording of this Schedule, but upon the statement (or catalogue) which is to be prepared by a committee, and which after being approved and then laid before Parliament will have effect in substitution for the Schedule (s. 24 (3), (4), (5), (6)).

In these circumstances detailed notes upon the words of the Schedule would appear to be unnecessary. The general intention would appear to be to include in rating everything which—as has been said—"makes a factory a factory," *i.e.* which fits it for industrial purposes generally, as distinct from the special equipment necessary for, and useful only for a particular kind of industry.

1. Machinery and plant (together with the shafting, pipes, cables, wires, and other appliances and structures accessory thereto) which is used or intended to be used, mainly or exclusively in connection with any of the following purposes, that is to say :—

(a) the generation, storage, primary transformation or main transmission of power in or on the hereditament; or

(b) the heating, cooling, ventilating, lighting, draining, or supplying of water to the land or buildings of which the hereditament consists, or the protecting of the hereditament from fire :

Provided that, in the case of machinery or plant which is in or on the hereditament for the purpose of manufacturing operations or trade processes, the fact that it is used in connection with those operations or processes for the purpose of heating, cooling, ventilating, lighting, supplying water, or protecting from fire shall not cause it to be treated as falling within the classes of machinery or plant specified in this Schedule.

(a) The term "*primary* transformation" seems likely to give some trouble, and possibly to lead to attempts to escape rating by placing some transformer,

capable of being called primary, as near to the source of supply as possible. "*Main* transmission," which savours of the somewhat vague distinction between "main shafting" and "countershafting," may also prove to be somewhat indefinite.

Certain processes may entail the application of heat to the material used, the solidification of it by cold, the abstraction of particles by special ventilating machinery, etc. The intention of the proviso seems to be to distinguish between heating, cooling, ventilating plant, etc., such as would be necessary for reasons of health and comfort in *any* industrial premises, and plant of a similar character required for the special processes carried on in the particular factory.

2. Lifts and elevators mainly or usually used for passengers.

Hoists and cranes used mainly for material or goods are excluded.

3. Railway and tramway lines and tracks.

This, of course, refers not to the running lines and sidings of a railway company on their own property, but to sidings and tracks within the buildings or works.

4. Such part of any plant or any combination of plant and machinery, including gas holders, blast furnaces, coke ovens, tar distilling plant, cupolas, water towers with tanks, as is, or is in the nature of, a building or structure.

It is difficult to see how part of a piece of plant (being non-structural in character) can be valued separately from the structural part, for both will, as a rule, be practically valueless by themselves. It would seem that some rather artificial principle will have to be employed—possibly the contractor's principle applied—to capital value or depreciated cost.

SCHEDULE IV.

Sections 25, 26, 27.

PROVISIONS WITH RESPECT TO PREPARATION OF VALUATION LISTS.

PART I.

Deposit and Inspection of Draft List.

1. The rating authority shall deposit the draft list at the offices of the authority.

2. The rating authority shall, immediately upon the deposit of the draft list, give to the county valuation committee and publish notice of the deposit, and the notice shall state the latest date at which and the mode in which objections to the draft list may be made.

As to the method of publication, see s. 46; *date*, *i.e.* within twenty-five days from the date of deposit (not of the publication), see s. 26 (1); *mode*, *i.e.* the objection must be served on the committee (s. 26 (1)), and must state the grounds (Part II., 1, *infra*); as to service, see s. 59, *ante*.

3. Where there is included in the draft list as deposited some hereditament not previously assessed, or where the gross or net annual or rateable

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value assigned in the draft list to some hereditament exceeds the value as stated in the valuation list for the time being in force, or, where there is no such valuation list, as stated in the then last assessment to the poor rate, the rating authority shall within seven days after the deposit of the draft list send to the occupier of the hereditament affected a notice of the gross, net annual and rateable values thereof inserted in the draft list.

A similar provision is already in force in the Metropolis—(Valuation (Metropolis) Act, 1869, s. 9). It may be doubted whether failure to serve such notice on a ratepayer would affect the validity of the list so far as he is concerned, seeing that he can, under s. 37, object to the list at any time; but the case hardly seems to be covered by s. 44; and obviously care should be taken to comply with the rule.

As only seven days are allowed, it would be wise, if the notices are numerous, to prepare them before deposit of the list.

As to methods of service, see s. 59.

4. The draft list so deposited shall be open to inspection for twenty-one days from the date on which notice of the deposit of the list is published.

5. Immediately on the expiration of the said period of twenty-one days the rating authority shall cause the draft list to be transmitted to the assessment committee.

They should also transmit the returns received by them (s. 40 (4)).

PART II.

Notices of Objection.

1. A notice of objection must specify the grounds of objection.

"Grounds":—not the reasons or arguments to be adduced in support of the objection (*Redheugh Colliery Co.* v. *Gateshead A. C.*, [1925] A. C. 309. See also as to sufficiency of grounds, *Halifax Equitable, etc., Society* v. *Bradford A. C.* (1922), 86 J. P. 165.

2. The assessment committee shall, within three days after the date on which an objection is lodged with them, cause a copy thereof to be sent to each of the following persons, not being the objector, that is to say—

(a) to the rating authority; and

(b) where the objection relates to a particular hereditament, to the occupier of that hereditament.

It is for the committee, not the objector, to serve these copies. In the case of appeals it is for the appellant to serve the copies as well as the original notice (Sched. V., 2).

In some circumstances an objection may be heard, although proper notice has not been given, see s. 27 (1).

PART III.

Meetings for hearing Objections.

1. Meetings for hearing objections to the draft list may be held at any time after the expiration of thirty days from the date on which the list was deposited, or on any earlier date, if in the opinion of the assessment committee such number of objections have been received by that

date as to make it desirable to hold a meeting, and the rating authority signify to the committee that they are ready to attend a meeting on that earlier date.

2. The assessment committee shall, at least fourteen days before holding a meeting for hearing objections, not being an adjourned meeting, cause notice of the meeting to be given to the rating authority of any area in which are situate any hereditaments to which the objections to be considered at the meeting relate, and shall at least fourteen days before the date on which any objection will be heard by the committee cause notice of the date to be given to the objector and to the occupier of the hereditament to which the objection relates, where such occupier is not the objector.

Notice of the meetings need not be published.

3. On the consideration of an objection any valuer employed by the assessment committee to value the hereditament to which the objection relates may be called as a witness.

4. No person, being either a party to the objection, or a witness in the case, or a valuer employed by the assessment committee, shall be present while the assessment committee are considering their decision on an objection.

Whether a valuer appointed by the committee has given evidence or not, he must not be present while they are considering their decision.

5. The assessment committee shall forthwith after determining an objection send notice of their decision to the objector and to the occupier of the hereditament affected, where such occupier is not the objector, and to the rating authority.

6. Every such notice as aforesaid of the decision of the assessment committee on an objection shall state that any person who is a party to the objection may, if aggrieved by the decision, appeal against it, and shall specify the time within which and the manner in which such an appeal may be made.

See s. 31 and Sched. V.

7. Where the assessment committee, in pursuance of the provisions of Part II. of this Act, alter the draft list on revision, otherwise than in determining an objection, by inserting therein some hereditament or by raising the gross or net annual or rateable value of some hereditament included therein, the assessment committee shall forthwith serve notice of the alteration on the occupier of the hereditament affected.

Alterations, otherwise than upon objections, are made under the committee's general power to revise (s. 27 (2)).

8. Every notice of an alteration made in the draft list by the assessment committee otherwise than in determining an objection, being a notice served on a person under the foregoing provisions of this Part of this Schedule, shall state that any person aggrieved by the alteration may lodge an objection to the alteration at any time within fourteen days after the date on which the notice is served on him, and that any such

Sched. IV. objection if lodged will be heard by the assessment committee on a date which will be duly notified to the person making the objection.

Fourteen days, not twenty-five, as in the case of objections to the draft list as deposited.

9. Except as otherwise expressly provided in this Act, the provisions of this Act relating to objections to the draft list as deposited shall apply with reference to objections to any alterations, insertions or corrections made by the assessment committee on the revision of the draft list otherwise than in determining an objection.

The provision as to the time for lodging such an objection seems to be the only material exception.

10. The assessment committee shall not be required to hear and determine all objections to the draft list before finally approving it, and if any objection is not heard and determined before the draft list is finally approved, it shall be heard and determined as soon as possible thereafter, and with the like consequences as if it had been a proposal duly made for the amendment of the current valuation list which had been served on the rating authority on the date on which that list comes into force.

This is evidently intended to secure that the list to come into force on April 1st (or October 1st) shall be approved by January 31st (or July 31st) at latest (s. 28 (1)), so that the rating authority may have time to prepare their next rates: see also s. 9 (2) (d).

The other objectors will not be prejudiced, for the decisions on the objections which have thus become proposals will take effect retrospectively (s. 37 (10)) to the date on which the list came into force. Indeed, it is really unnecessary for any one to object on deposit of a new list: he can wait until the demand for the first rate made upon that list is served, and then make a proposal.

Section 31.

SCHEDULE V.

APPEALS TO QUARTER SESSIONS.

PART I.

Notices of Appeal.

1. Notice of appeal must be given to the clerk of the court to which the appeal is made before the expiration of twenty-one days after the date on which the valuation list is finally approved.

I.e. to the clerk of the peace for the county, or quarter sessions borough in which the hereditament is situated (s. 31 (1)).

In the case of an appeal against a decision upon a proposal, the time runs from the date of the decision (s. 37 (8)); in the case of an appeal against a decision upon an objection, it runs from the date on which the list was approved; it was possibly considered that until such date the assessment committee and rating authority would be sufficiently busy without having to prepare cases for appeal.

If the proposal is decided, or the list is approved, on the 1st day of a month, the 22nd will be the latest day for serving notices.

As to methods of service, see s. 59.

2. A copy of the notice of appeal must also be served by the appellant within the time allowed for giving notice of the appeal on the assessment committee and on each of the following persons, not being the appellant, that is to say :—

(a) the rating authority ;

(b) where the appeal relates to a particular hereditament, the occupier of that hereditament.

In the case of an objection, the assessment committee serve the copies (Sched. IV., Part II., 2) ; in the case of an appeal, the appellant must do so.

The assessment committee will, of course, never be *appellants* at quarter sessions.

3. The notice of appeal must specify the grounds of appeal.

It has been said that an appellant should not be held too closely to points taken before the committee (*Redheugh Colliery Co.* v. *Gateshead A. C.*, p. 128, *ante*).

4. The clerk of the court on receiving a notice of appeal shall, without any application in that behalf, enter the appeal for hearing at the next sitting of the court to be held after the expiration of thirty-five days from the date on which the list was finally approved, but the court may, on an application made by any party to the appeal, direct that the hearing shall be postponed and entered for some subsequent sitting of the court.

Presumably the thirty-five days is intended to give the rating authority and assessment committee time to prepare their cases after all objections have been disposed of. It may, however, perhaps be doubted whether in future assessment committees will often appear as respondents to defend their decisions ; see notes to s. 31 (1).

PART II.

Provisions with respect to Arbitrations.

1. Where any matter is referred to arbitration under the provisions of this Act relating to appeals to quarter sessions the arbitrator to act shall be such person as may be agreed on by the parties or, in default of agreement, appointed by the President of the Surveyors Institution.

As to such arbitrations, see s. 31 (6).

2. The parties to an arbitration may before entering on the reference agree in writing that the award of the arbitrator shall be final and conclusive on all questions whether of fact or law, and where any such agreement is made, the provisions of the Arbitration Act, 1889, as to the power of an arbitrator to state in the form of a special case an award or any question of law arising in the course of a reference shall not apply.

If no agreement is made, the award will be final on questions of fact.

The Arbitration Act will apply automatically to such an arbitration ; but if the parties agree to accept the award as final and conclusive on questions of both law and fact, the provisions of the Act as to stating special cases are, of course, inapplicable.

3. The costs of and incidental to the hearing before the arbitrator, and his award, shall be in the discretion of the arbitrator, and if not agreed by the parties, shall be taxed as part of the costs of the appeal to quarter sessions.

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I.e. the arbitrator decides in his award which party (if any) is to pay or receive costs; but the amount of such costs, if not agreed, is to be taxed by the court.

The award must be enrolled at sessions before sessions can make the necessary order to give effect to it; see ss. 31 (7), (10), 35.

Section 49.

SCHEDULE VI.

PROVISIONS AS TO THE DETERMINATION AND PAYMENT OF COMPENSATION TO OFFICERS.

1. The provisions of section one hundred and twenty of the Local Government Act, 1888, shall apply to the determination and payment of compensation under this Act to officers subject to the following and any other necessary modifications :—

(a) Any reference in that section to the county council shall be construed as a reference to the compensating authority and the Minister shall therein be substituted for the Treasury;

(b) For the reference to the county fund there shall be substituted a reference to the fund out of which the general expenses of the compensating authority are payable, and if any compensation is payable otherwise than by way of an annual sum, the payment of that compensation shall be a purpose for which a compensating authority may borrow subject always to the consent of the Minister and upon such terms as he may authorise.

(c) References in that section to "the passing of this Act" shall be construed as references to the date on which the relinquishment or abolition of office takes effect, or the direct pecuniary loss commences, as the case may be;

(d) The expression in subsection (1) of that section "the Acts and rules relating to Her Majesty's Civil Service" shall mean the Acts and rules relating to Her Majesty's Civil Service which were in operation at the date of the passing of the Local Government Act, 1888;

(e) In subsection (7) of that section for the words "under the same or any other county council" there shall be substituted the words "under any local authority."

The provisions of s. 120 of the Local Government Act, 1888, are as follows :—

(1) Every existing officer declared by this Act to be entitled to compensation, and every other existing officer, whether before mentioned in this Act or not (*a*), who by virtue of this Act, or anything done in pursuance of or in consequence of this Act, suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, shall be entitled to have compensation paid to him for such pecuniary loss by the county council (*b*), to whom the powers of the authority, whose officer he was, are transferred under this Act, regard being had (*c*) to the conditions on which his appointment was made, to the nature of his office or employment, to the duration of his service, to any additional emoluments which he acquires by virtue of this Act or of anything done in pursuance of or in consequence of this Act, and to the emoluments which he might have acquired if he had not refused to accept any office

offered by any council or other body acting under this Act, and to all the other circumstances of the case, and the compensation shall not exceed the amount, which, under the Acts and rules (*d*) relating to Her Majesty's Civil Service, is paid to a person on abolition of office.

(2) Every person who is entitled to compensation, as above mentioned, shall deliver to the county council (*b*) a claim under his hand setting forth the whole amount received and expended (*e*) by him or his predecessors in office, in every year during the period of five years next before the passing of this Act (*ee*), on account of the emoluments for which he claims compensation, distinguishing the offices in respect of which the same have been received, and accompanied by a statutory declaration under the Statutory Declaration Act, 1835, that the same is a true statement according to the best of his knowledge, information, and belief.

(3) Such statement shall be submitted to the county council (*b*), who shall forthwith take the same into consideration, and assess the just amount of compensation (if any), and shall forthwith inform the claimant of their decision.

(4) If a claimant is aggrieved by the refusal of the county council (*b*) to grant any compensation, or by the amount of compensation assessed, or if not less than one-third of the members of such council subscribe a protest against the amount of the compensation as being excessive, the claimant or any subscriber to such protest (as the case may be) may, within three months after the decision of the council, appeal to the Treasury (*f*), who shall consider the case and determine whether any compensation, and if so, what amount ought to be granted to the claimant, and such determination shall be final.

(5) Any claimant under this section, if so required by any member of the county council (*b*), shall attend at a meeting of the council and answer upon oath, which any justice may administer, all questions asked by any member of the council touching the matters set forth in his claim, and shall further produce all books, papers, and documents in his possession or under his control relating to such claim.

(6) The sum payable as compensation to any person in pursuance of this section shall commence to be payable at the date fixed by the council on granting the compensation, or in case of appeal, by the Treasury (*f*), and shall be a speciality debt (*g*) due to him from the county council (*b*), and may be enforced accordingly in like manner as if the council had entered into a bond to pay the same.

(7) If a person receiving compensation in pursuance of this section is appointed to any office under the same or any other county council (*h*), or by virtue of this Act, or anything done in pursuance of or in consequence of this Act, receives any increase of emoluments of the office held by him, he shall not, while receiving the emoluments of that office, receive any greater amount of his compensation, if any, than, with the emoluments of the said office, is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation shall be suspended while he holds such office.

(8) All expenses incurred by a county council (*b*) in pursuance of this section shall be paid out of the county fund (*i*), as a payment for general county purposes.

Notes to Local Government Act, 1888, *s.* 120.

(*a*) Section 120 is applied to "the *determination* and payment" of compensation with "any necessary modifications." Section 49 of this Act specifies the officers entitled to compensation, and therefore it would seem that the opening general words of s. 120 (1) cannot entitle any one to compensation who is not mentioned in s. 49 (cf. *R.* v. *London C. C., ex parte Norris*, [1906] 1 K. B. 346; 70 J. P. 160).

(*b*) See modification (a), *supra*, and definition of "compensating authority" in paragraph 9, *post*.

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(*c*) It is specially important to notice that regard may (and doubtless will) be had to an unreasonable refusal by a man to mitigate his loss by accepting an office offered to him by another authority.

(*d*) See modification (d), *supra*, and note thereto, *infra*.

(*e*) The Treasury practice was to calculate compensation upon the average net amount of salary and emoluments during the preceding five years. The Act expressly mentions "five years," and the words "and expended" here and the language of paragraph 6, *post*, clearly point to a "net" loss.

(*ee*) See modification (c), *supra*.

(*f*) See modification (a), *supra*. The Minister's decision on an appeal is final.

(*g*) If the authority once fix the amount, they cannot rescind their resolution (*Livingstone* v. *Westminster Corporation*, [1904] 2 K. B. 109; 68 J. P. 276).

(*h*) See modification (e), *supra*, and definition of "local authority" in paragraph 9, *post*.

(*i*) See modification (b), *supra*. Compensation usually takes the form of an annual payment; but, where that amount would be very small, it may save book-keeping and be convenient to both parties to make a lump-sum payment. See paragraph 7, *post*.

Notes to the Modifications.

The modifications set out in (a), (b), (c) and (e) of this paragraph are self-explanatory; but see definitions of "compensating authority" and "local authority" in paragraph 9.

Modification (d) (relating to s. 120 (1)) requires explanation. The Civil Service Acts in force in 1888 were the Superannuation Acts, 1859 and 1884. Notwithstanding the language of s. 120, and its continued application in later Acts, there never were any "rules"; but under s. 7 of the Act of 1859 it was the "practice" in cases of abolition of office to grant compensation on the following basis:—

(1) An annual allowance of one-sixtieth of the officers' emoluments for each completed year of service, *plus*

(2) A special addition not exceeding

Years of service.	Addition.
20 or more	10 sixtieths
15–20	7 ,,
10–15	5 ,,
5–10	3 ,,
Under 5	1 ,,

Two-thirds of the emoluments was the maximum.

Under the Superannuation Act, 1909, the present allowances to civil servants are less favourable to the officer; and, therefore, in Acts abolishing offices Parliament is always urged, frequently (as in this case) with success, to apply as a concession "the Acts and Rules of 1888."

Presumably in deciding questions as to compensation the Minister, who in this Act is substituted for the Treasury, will follow the Treasury "practice" under the pre-1888 Acts, except where (*e.g.* para. 2) this Schedule makes specific provision.

2. In computing the time of service in any capacity of any officer for the purpose of the award of compensation, the compensating authority shall take into account all the service of that officer in any capacity under any local authority, whether such officer was appointed annually or otherwise:

Provided that, if in pursuance of the power conferred by this Act an office is abolished by an assessment committee, or by a rating authority, otherwise than at the expiration of a complete year of service of an officer, the portion then expired of that year shall be treated as a complete year where such portion exceeds six months, and shall be ignored where such portion does not exceed six months.

The Treasury "practice" under the old Acts was to reckon completed years only.

3. The compensation payable under this Act to an officer who immediately before the appointed day, held two or more offices under any local authority or local authorities and who devoted the whole of his time to the duties of such offices, shall not be reduced by reason of the fact that he has devoted only part of his time to each of such offices.

In the case of a part-time officer, the rest of whose time is not devoted to public work under another authority, it would be the "practice" to make some deduction from the compensation payable—probably one-fourth.

4. If any officer was temporarily absent from his employment during the war whilst serving in His Majesty's forces, or the forces of the Allied or Associated Powers, either compulsorily or with the sanction or permission of the local authority, such period of temporary absence shall be reckoned as service under the local authority in whose employment he was immediately before and after such temporary absence, and the amount of his salary, wages and emoluments during such temporary absence shall be deemed to be the amount which he would have received from the local authority during that period if he had remained in their actual service :

Provided that in the case of an officer who, after the armistice, voluntarily extended his term of service in the Forces, no period of absence during such extension shall be reckoned.

This is common form; but, as more than five years have now elapsed since the armistice, the provision as to "salary, etc.," has become superfluous.

5. The compensating authority may, in their discretion and in consideration of the fact that any officer was appointed to his office as a specially qualified person, or of the fact that he had prior to his appointment served as a deputy, assistant or clerk to any officer, not holding a temporary appointment, add any number of years (not exceeding ten) to the number of years which such officer would otherwise be entitled to reckon for the purpose of computing the compensation to which he would be entitled under the Acts and rules relating to Her Majesty's Civil Service as applied by this Act.

There was power to give these "added years" under the Act of 1859, s. 4, and the Act of 1884, s. 3, but it was repealed by the Superannuation Act, 1914, s. 5. It is now definitely re-enacted for the purposes of this Act.

6. All fees or remuneration received by an officer in connection with the preparation of the electors' lists under the Representation of the People Acts, 1918 to 1922, shall, subject to a reasonable deduction for any expenses incurred by the officer, be regarded as part of the emoluments of the officer for the purpose of compensation.

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This makes it clear that such fees are to be reckoned, although the officer could not claim as of right to do the work, and it was merely given to him because his official experience made him a suitable person to do it.

7. The compensation shall not exceed two-thirds of the annual pecuniary loss suffered by virtue of this Act, or of anything done in pursuance or in consequence of this Act, or if the compensation is payable otherwise than by way of an annual sum, two-thirds of the capital value of such annual pecuniary loss.

This is important as fixing the maximum allowance permissible. Two-thirds was the maximum under the Treasury "practice."

8. No officer shall be entitled to receive both compensation under this Act for pecuniary loss and a superannuation or retiring allowance in respect of the same period of service and the same pecuniary loss.

9. In this Schedule, the expression—

"Compensating authority" means the assessment committee or rating authority to whom an application for compensation is made;

"Local authority" means any assessment committee or any rating authority, or any local authority as defined in section three of the Local Government and other Officers' Superannuation Act, 1922.

In case of need reference may be made to the more detailed notes on compensation for loss of office in vol. i. of Lumley's Public Health Acts, at pp. 988–993

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SCHEDULE VII.

TRANSITIONAL PROVISIONS.

Transfer of Property and Liabilities.

Property, liabilities, &c., of existing assessment committees.

1.—(1) Subject to the provisions of this Act, any property and liabilities held or incurred by a board of guardians on behalf of any assessment committee appointed by them shall on the appointed day by virtue of this paragraph be transferred to, vest in and attach to the assessment committee for the assessment area comprising the poor law union for which the guardians act, or, if the assessment area does not comprise the whole of the poor law union, to the assessment committees appointed for the assessment areas into which the poor law union extends.

As a rule an assessment committee will not have any property, other than books and documents which are dealt with by Rule 2 (3), nor any liabilities which cannot be liquidated before the appointed day in accordance with Rule 5 (5).

(2) Where by this paragraph any property or liabilities are transferred to more than one assessment committee, section sixty-eight of the Local Government Act, 1894 (which relates to the adjustment of property and liabilities), shall apply.

Rule 5 (5) deals with another case in which an adjustment may be needed under s. 68 of the Local Government Act, 1894. That section provides as follows :—

68.—(1) Where any adjustment is required for the purpose of this Act, or of any order or thing made or done under this Act, then, if the adjustment is not otherwise made, the authorities interested may make agreements for the purpose, and may thereby adjust any property, income, debts, liabilities and expenses, so far as affected by this Act, or such scheme, order or thing of the parties to the agreement.

(2) The agreement may provide for the transfer or retention of any property, debts, liabilities, with or without any conditions and for the joint use of any property, and for payment by either party to the agreement in respect of property, debts, and liabilities so transferred or retained, or of such joint user, and in respect of the salary or remuneration of any officer or person, and that either by way of an annual payment or, except in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board : Provided that where any of the authorities interested is a board of guardians, any such agreement, so far as it relates to the joint use of any property, shall be subject to the approval of the Local Government Board.

(3) In default of an agreement, and as far as any such agreement does not extend, such adjustment shall be referred to arbitration in accordance with the Arbitration Act, 1889, and the arbitrator shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.

(4) Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses of exercising their duties under this Act, or out of such special fund as the authority, with the approval of the Local Government Board, direct, and if it is a capital sum the payment thereof shall be a purpose for which the authority may borrow under the Acts relating to such authority, on the security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction.

(5) Any capital sum paid to any authority for the purpose of any adjustment under this Act shall be treated as capital, and applied with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

(3) Nothing in this paragraph shall transfer to an assessment committee any liability in respect of moneys borrowed by a board of guardians for the purpose of defraying the cost of a valuation of ratcable hereditaments.

Custody of books and documents.

2.—(1) All valuation lists (*a*), rate books or other books of account, or documents relating to the making, levying or collection of rates, which at the appointed day are in the custody of the vestry clerk or of the overseers of a parish or any other authority whose rating powers and duties are by this Act transferred to rating authorities shall be under the control of the rating authority of the rating area comprising that parish, and subject to the right of the overseers or any parochial officer to the custody of such books or documents for the purpose of the making up and audit of accounts, shall be deposited in such custody as the rating authority may direct.

(*a*) *I.e.* the copies kept parochially ; the lists kept by the union assessment committee are dealt with in (3), *infra*.

This sub-paragraph deals with the custody of "rating" documents.

(2) All books and documents which at the appointed day are in the custody of the vestry clerk or overseers of a parish shall, if they contain

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entries wholly or partly relating to the affairs of the church or to ecclesiastical charities, and are not books or documents directed by law to be kept with the public books, writings, and papers of the parish, be deposited in such custody as the parochial church council may direct, and, subject as aforesaid and to the provisions of this Schedule relating to books or documents relating to the making, collection, or levying of rates, all public books, writings, and papers of the parish (including all documents directed by law to be kept with such books, writings, and papers), which at the appointed day are in the custody of the vestry clerk or overseers shall be deposited in such custody as may be directed, in the case of a rural parish, by the parish council, or, if the parish is not under a parish council, by the parish meeting, and in the case of any other parish by the rating authority.

This sub-paragraph deals with parochial documents other than the "rating" documents already dealt with by (1). If the vestry clerk or overseers hold any such which contain entries wholly or partly relating to the affairs of the church or to ecclesiastical charities, then, unless they are books or documents directed by law to be kept with the public books, writings and papers of the parish, the parochial church council are to decide as to their future custody.

If the vestry clerk or overseers hold any other public books, writings, or papers of the parish, or any documents directed by law to be kept therewith, then (except so far as they are "rating" documents dealt with by (1)) their future custody will be decided by the parish council, parish meeting, or rating authority, as the case may be.

The paragraph is evidently modelled on s. 17 (8) of the Local Government Act, 1894, which provided that:

"The custody of the registers of baptisms, marriages, and burials, and of all other books and documents containing entries relating to the affairs of the church or to ecclesiastical charities, except documents directed by law to be kept with the public books, writings, and papers of the parish shall remain as provided by the existing law unaffected by this Act. All other public books, writings, and papers of the parish, and all documents directed by law to be kept therewith, shall either remain in their existing custody or be deposited in such custody as the parish council may direct."

(3) The assessment committee (*a*) shall be entitled to the possession and control of any valuation lists, notices of objection, minute books and other books or documents wholly relating to business of the assessment committee appointed by the board of guardians, which at the appointed day are in the possession or under the control of the assessment committee of the guardians:

Provided that, where a poor law union is not wholly comprised within one assessment area, any such book or document, which does not wholly relate to a parish or parishes within one assessment area, shall be transferred by the assessment committee of the guardians to the assessment committee for that assessment area which contains according to the returns of the census of nineteen hundred and twenty-one the largest proportion of the total population of that poor law union, but the assessment committee for an assessment area which comprises any part of such poor law union shall have a right of inspecting any book or document transferred to the assessment committee for any assessment area comprising any part of that union, and of making copies of, or extracts therefrom, free of charge.

(*a*) *I.e.* the new assessment committee.

(4) Nothing in this paragraph shall affect the right of any ratepayer

or other person to inspect or to make copies of, or extracts from, any book or document transferred or deposited thereunder.

As to rights of inspection, see s. 60.

Transfer of property.

3. Where any property is transferred by or in pursuance of this Act from one authority to another authority—

(1) Such property shall be held by the authority to whom it is transferred, subject to all debts and liabilities affecting the same ; and

(2) The latter authority shall hold the same for the estate, interest, and purposes, and subject to the covenants, conditions, and restrictions for and subject to which the property would have been held if this Act had not passed, so far as the same are not modified by or in pursuance of this Act.

This will apply more particularly to any property which is now vested in overseers and will be transferred to other persons by an order in council under s. 62.

Transfer and application of balances.

4.—(1) Any balance at the appointed day in the hands of overseers shall forthwith be paid to the rating authority of the area, and any balance at the appointed day due to overseers shall be paid to those overseers by the rating authority of the rating area.

(2) The foregoing provisions of this paragraph shall extend to any balance which is at the appointed day in the hands of or due to any assistant overseer or other parish officer, as if such balance were in the hands of or due to overseers.

(3) Any balance at the appointed day standing in the accounts of—

(a) a board of guardians to the credit or debit of a parish within the poor law union ; or

(b) a rural district council in respect of general expenses to the credit or debit of any parish within the rural district ;

shall in those accounts be carried to the credit or debit of the common fund of the union or of the general rate fund of the district, as the case may be, in which the parish is comprised.

(4) Nothing in this Act shall affect the application of any balance to the credit or debit of any parish in respect of special expenses.

Rule 5 makes provision for the adjustment which will be necessary in respect of these balances, *i.e.* the parochial balance in the hands of the overseers, the balance (in the case of a rural parish) in the books of the rural district council, and the balance in the books of the guardians.

Adjustment of parochial balances, liabilities, &c.

5.—(1) Before the expiration of a period of three years from the appointed day, or of such further period as the Minister may by order direct, such adjustments shall be made by rating authorities in making the rates leviable under this Act, and by guardians in issuing precepts to rating authorities, as are necessary for securing that, as far as practicable, each rating area and each parish therein shall have the advantage of any credit balance or recoverable sum of which account has under this paragraph to be taken, and shall make good any debit balance or undischarged liability of which account has under this paragraph to be taken.

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(2) For the purpose of any such adjustment, the rate in the pound of the rate otherwise leviable by the rating authority in any parish within the rating area, or the precept otherwise issuable by guardians in respect of any rating area, shall be increased or decreased by the rating authority or guardians, as the case may require.

(3) The sums of which account shall be taken in adjustments under this paragraph shall be certified to the rating authority and to the guardians by the district auditor for the audit district comprising the rating area, and the certificate of the district auditor shall be given as soon as practicable after the appointed day and shall, subject as hereinafter provided, be final and conclusive :

Provided that any such auditor may, if he thinks fit, give an interim or provisional certificate, and may amend any final certificate given by him so far as appears to him necessary for the purpose of correcting any errors.

(4) For the purpose of this paragraph, account shall be taken by the district auditor of the respective rights of all the authorities concerned, and in particular of—

(a) the balances transferred to or payable under this Act by the rating authority in respect of parishes within the rating area ;

(b) the parochial balances in the accounts of the guardians or rural district council which in pursuance of this Act have been carried to the credit or debit of the common fund of the union or of the general rate fund of the district ;

(c) any recoverable arrears of rates or other income due to the overseers of a parish, and any sum certified by the district auditor to be due from any person at the audit of the accounts of the overseers of a parish ;

(d) any undischarged liability of the overseers of a parish, accruing before the appointed day and by this Act transferred to the rating authority ; and

(e) any unsatisfied precepts.

(5) It shall be the duty of every authority from whom powers, duties, and liabilities are transferred by this Act to liquidate, so far as practicable, before the appointed day all debts and liabilities of the authority incurred in the execution of the transferred powers and duties and accruing on or before that day, and in default of a compliance with this requirement any sum paid by an assessment committee or rating authority, in respect of any such debt or liability as aforesaid shall be charged to the area to which that payment would have been chargeable if this Act had not passed, subject, however, to an adjustment under paragraph (1) of this Schedule where the area of the authority in default extends into more than one assessment area.

The balances to the credit or debit of parishes in a union are to be "pooled" by the guardians. So, too, balances handed over by overseers to a rating authority (and balances held by that authority, if a rural district council) are to be "pooled" by that authority ; and an adjustment will have to be made between the parishes who will have thus contributed to two common funds.

The adjustment will be a somewhat complicated matter, and presumably full instructions upon the point will be issued from the Ministry of Health ; no doubt,

too, the advice of the district auditor will be available. Pending the issue of instructions, it is impossible to forecast with certainty the precise methods to be adopted; but it would seem practicable to make an equitable adjustment on the following lines: Assume a union comprising two rating areas, one rural (R) with three parishes A, B, and C, and one urban (U) with two parishes X and Y. Assume further that the balances of these five parishes on the appointed day are shown as below, all being in credit except C as regards the guardians:—

	Rural Rating Area—R.				Urban Rating Area—U.		
Parishes	A	B	C	Total.	X	Y	Total.
	£	£	£	£	£	£	£
Balances in guardians' books	450	250	—50	650	250	50	300
Balances in R.D.C. books .	100	150	50	300	—	—	—
Overseers' balances . .	300	250	150	700	150	100	250
	850	650	150	1650	400	150	550

I. Adjustment as between rating areas.—The guardians have in hand a balance of £950—contributed as to £650 by R and as to £300 by U. Ascertain for both R and U the total values of the area—*i.e.* the values on which precepts are issued. Adopt R's contribution of £650 as correct, and calculate what would be a proportionate amount for U to contribute to the common fund; if U's proper share works out at (say) £450, then U having already contributed £300 must be called upon to pay another £150. The guardians would, therefore, issue to the U rating authority an equalising precept for £150 (to be raised over the whole of U); and the two areas (as wholes) will have contributed in equitable proportions to guardians' common fund.

II. Adjustment between parishes in R.—The total balances contributed by A, B, and C to the two common funds (guardians £650, and area £1000) amount to £1650. Of this the guardians require to hold towards their working balance £650, and the rating authority require to hold as their working balance (say) £600—£1250 in all. Ascertain the total rateable values of A, B, and C respectively, and calculate what would be the proper proportionate share for each to contribute in order to raise the £1250, (say) A £650, B £500, and C £100. In fact, they have contributed, A £850, B £650, and C £150. Therefore there is on adjustment due to A £200, to B £150, and to C £50. These sums can be returned to the parishes by reducing the general rate by the proper amount in the case of each of them, and such deductions can be spread, if desired, over three years.

III. The adjustment between parishes in U can be carried out on the same lines.

It may be noted in connection with these adjustments that the aggregate amount of overseers' balances at the end of a financial year is estimated to be, as a rule, about 4½ million pounds. When these are combined into rating area balances, it will probably be found that there are large surpluses over the necessary working balances, and that considerable refunds can be made to the individual parishes.

On the first audit after the appointed day it will be possible to calculate the amounts due to or from each parish with sufficient accuracy to begin making adjustments, but it may be some time before absolutely final statements can be prepared; for instance, some rates at first regarded as recoverable (see (4) (c), *infra*) will probably prove eventually to be irrecoverable.

Arrears of rates, precepts, accounts, and proceedings.

6.—(1) All sums due on the appointed day in respect of rates made before the appointed day shall be collected and recovered by the rating authority of the rating area, and all precepts for contributions issued before the appointed day and not discharged before that day shall be payable by the rating authority.

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(2) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act had not passed, but as soon as practicable after the appointed day, and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day :

Provided that any sum certified to be due from any person by the district auditor at the audit of the accounts of the overseers of a parish shall be paid by that person to the rating authority.

Saving for existing securities.

7.—(1) Nothing in or done under this Act shall prejudicially affect any mortgage or other security which operates as a charge on any rate or rate fund abolished by this Act, or the powers of any person entitled under any such mortgage or security to enforce the same as if this Act had not passed.

(2) Any such mortgage or other security shall have effect as if the general rate or special rate, and the general rate fund or special rate fund, under this Act were substituted for the rate and rate fund referred to in the security, and where, for the purpose of enforcing the security, it is necessary to continue the exercise of a power which would have existed but for this Act, the power may continue to be exercised as if this Act had not passed.

Saving for pending contracts, legal proceedings, &c.

8.—(1) All proceedings, legal and other, begun before the appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act, and of any order or scheme made thereunder.

(2) Any cause of action by or against any authority which exists at the date of the transfer in relation to any powers, duties, liabilities, debts or property transferred by this Act to an assessment committee or to a rating authority shall not be prejudicially affected by the passing of this Act, but may be prosecuted and enforced by or against the assessment committee or the rating authority, as the case may be, as successors of the authority from which the transfer aforesaid was made.

(3) All contracts, deeds, bonds, agreements, and other instruments affecting any powers, duties, liabilities, debts, or property or any officers transferred by this Act and subsisting at the time of the transfer, shall be of as full force and effect against or in favour of the assessment committee or the rating authority, as the case may be, to whom the transfer was made, and may be enforced as fully and effectually as if, instead of the authority named in the instrument, the authority to whom the transfer is made had been a party thereto.

Provisions as to Poor Rates and County Contributions.

Poor rate to be made for rating area instead of for parishes.

9. Where the rating authority of an urban rating area, comprising two or more parishes, at any time between the appointed day and the date on which the power to make a general rate for the area comes into operation, make and levy a poor rate, they shall make a poor rate for the area instead of making separate poor rates for the parishes comprised in it :

Provided that where by virtue of any precept or otherwise any amount is chargeable separately on any parish or part of the area, the rating authority shall levy that amount on that parish or part together with and as an additional item of the poor rate. Sched. VII.

In rural rating areas the new general rate will be levied over the whole area as from the appointed day (s. 2 (2)). In urban rating areas the new general rate will not be levied until one year, or two years, later; but in this interval (if the area consists of two or more parishes) the poor rate is to be levied over the whole area—special parochial charges being levied as additional items of that rate in the parishes concerned; cf. s. 2 (5).

10. All enactments in force immediately before the appointed day with respect to the preparation, confirmation, revision, and effect of the basis or standard for a county rate shall continue in force during the period beginning on the appointed day and ending on the thirty-first day of March, nineteen hundred and twenty-nine, and subject as hereinafter provided a county council shall in respect of that period apportion any contributions required by them and issue precepts on the same basis and in like manner as if this Act had not been passed: Saving for enactments relating to county basis.

Provided that—

(a) precepts required to be sent to boards of guardians shall, in lieu of being so sent, be sent to rating authorities; and

(b) contributions for general county expenses, and for special county expenses, so far as such last-mentioned expenses are chargeable on all the parishes in a rating area (whether in common with other parishes in the county or not) in proportion to the yearly value of property in the parishes, shall be apportioned to and charged on the rating area as a whole instead of being charged separately on each parish therein, and shall be paid out of the general rate levied for the rating area, or, if the contributions are required in respect of a period before the date when the power to make a general rate for the area comes into operation, out of the poor rate levied for the area.

The reason for postponing the application of the new precepting system to county councils until 1st April, 1929, when *all* areas will have been revalued—is explained in the notes to s. 9 (1).

In the interval the existing system is to continue, but county charges common to all the parishes in any rating area are to be charged on that area as a whole, and not on the individual parishes. The result will be to spread the losses from property which has become unproductive, which may at present fall much more heavily on one parish than on another. It has been stated that in some cases one of two parishes, supposed in theory to contribute equally to common county charges, has been compelled to raise for those charges a rate heavier by more than sixpence in the pound than its neighbour, because some colliery or other large undertaking has closed down. Under this paragraph such a loss in rateable value will be spread over the whole area.

As pointed out in the notes to s. 19 (1), it appears to be uncertain whether apportionment on the county rate basis will or will not operate equitably in the year 1928–9 as between parishes whose new lists come into force on 1st April, 1928, and other parishes.

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SCHEDULE VIII.

ENACTMENTS REPEALED (*a*).

Session and Chapter.	Short Title.	Extent of Repeal.
43 Eliz. c. 2. . .	The Poor Relief Act, 1601 .	Section one so far as it relates to the appointment of overseers; in section eight the words "the noyacion of ov[er]seers"; section nine.
14 Car. 2. c. 12 .	The Poor Relief Act, 1662 .	Section twenty-one so far as it relates to the appointment of overseers.
17 Geo. 2. c. 3 . .	The Poor Rate Act, 1743 .	The whole Act.
17 Geo. 2. c. 38 .	The Poor Relief Act, 1743 .	Section three.
54 Geo. 3. c. 91 .	The Poor Law (Overseers) Act, 1814.	The whole Act
54 Geo. 3. c. 170 .	The Poor Relief Act, 1814 .	Section eleven.
59 Geo. 3. c. 12 .	The Poor Relief Act, 1819 .	Sections six and seven.
3 & 4 Will. 4. c. 90 .	The Lighting and Watching Act, 1833.	In section thirty-three the words from "Provided always" to the words "pay for the purposes of this Act"; and section thirty-four.
5 & 6 Will. 4. c. 50 .	The Highway Act, 1835 .	In section twenty-seven the words from "and provided also" to the end of the section; sections twenty-eight, twenty-nine, thirty-one, thirty-two, thirty-four, thirty six to forty.
6 & 7 Will. 4. c. 96 .	The Parochial Assessments Act, 1836.	The whole Act.
3 & 4 Vict. c. 88 .	The County Police Act, 1840	Section four.
7 & 8 Vict. c. 101 .	The Poor Law Amendment Act, 1844.	Sections twenty-two and sixty-two.
10 & 11 Vict. c. 34 .	The Towns Improvement Clauses Act, 1847.	Sections one hundred and seventy-six and one hundred and seventy-seven.
11 & 12 Vict. c. 91 .	The Poor Law Audit Act, 1848.	Sections one, two, and eleven.
11 & 12 Vict. c. 110 .	The Poor Law Amendment Act, 1848.	Section seven.
12 & 13 Vict. c. 8 .	The Poor Law (Overseers) Act, 1849.	The whole Act.
12 & 13 Vict. c. 103.	The Poor Law Amendment Act, 1849.	Section six.
13 & 14 Vict. c. 57 .	The Vestries Act, 1850 .	Sections six to nine.
13 & 14 Vict. c. 101 .	The Poor Law Amendment Act, 1850.	Section seven.
15 & 16 Vict. c. 81 .	The County Rates Act, 1852	Sections four to twenty; in section twenty-six the words from "a printed list" to "within the county and"; sections twenty-seven to twenty-nine; in section thirty-two the word "allowed"; sections forty to forty-three.

(*a*) As to the date from which repeals operate, see s. 69 (4).

Sched. VIII.

Session and Chapter.	Short Title.	Extent of Repeal.
20 Vict. c. 19 . .	The Extra-Parochial Places Act, 1857.	In section one the words from "and the justices" to the end of the section.
24 & 25 Vict. c. 55 .	The Poor Removal Act, 1861.	Section ten.
25 & 26 Vict. c. 103 .	The Union Assessment Committee Act, 1862.	The whole Act.
27 & 28 Vict. c. 39 .	The Union Assessment Committee Amendment Act, 1864.	The whole Act except sections six and thirteen.
28 & 29 Vict. c. 79 .	The Union Chargeability Act, 1865.	Section twelve.
29 & 30 Vict. c. 78 .	The County Rate Act, 1866.	The whole Act.
29 & 30 Vict. c. 113 .	The Poor Law Amendment Act, 1866.	Sections ten to twelve.
30 & 31 Vict. c. 102 .	The Representation of the People Act, 1867.	Section seven.
31 & 32 Vict. c. 122 .	The Poor Law Amendment Act, 1868.	Sections twenty-eight to thirty-two, and sections thirty-eight, thirty-nine and forty.
32 & 33 Vict. c. 41 .	The Poor Rate Assessment and Collection Act, 1869.	Sections three to six, nine, eleven, thirteen, fourteen, sixteen and seventeen; in section eighteen the words "with the allowance of the rate by the justices," and section twenty.
37 & 38 Vict. c. 54 .	The Rating Act, 1874 .	Section twelve; and in section fifteen the definitions of "valuation list" and "assessment committee."
38 & 39 Vict. c. 55 .	The Public Health Act, 1875	In section two hundred and ten, the words from "any such rate" to the end of the section; section two hundred and eleven, except sub-paragraph (c) of paragraph (1) and paragraph (4) thereof; section two hundred and twelve; in section two hundred and eighteen the words "general district rate or"; sections two hundred and nineteen to two hundred and twenty-three and section two hundred and twenty-five except so far as those sections relate to private improvement rates; sections two hundred and thirty and two hundred and thirty-one, and section two hundred and forty-eight.
39 & 40 Vict. c. 61 .	The Divided Parishes and Poor Law Amendment Act, 1876.	In section six the words "for which an overseer shall be appointed and," and the word "other."
43 & 44 Vict. c. 7 .	The Union Assessment Act, 1880.	The whole Act.
45 & 46 Vict. c. 20 .	The Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882.	The whole Act.
45 & 46 Vict. c. 27 .	The Highway Rate Assessment and Expenditure Act, 1882.	The whole Act, except sections one, two and six.

(*a*) As to the date from which repeals operate, see s. 69 (4).

Sched. VIII.

Session and Chapter.	Short Title.	Extent of Repeal.
45 & 46 Vict. c. 50 .	The Municipal Corporations Act, 1882.	Section one hundred and forty-four, except subsections (1) and (2); section one hundred and forty-five; subsection (1) of section one hundred and forty-six from "on receipt of" to the words "in the borough" where those words secondly occur; subsections (3), (4), (5), and (6) of section one hundred and forty-six; sections one hundred and forty-seven and one hundred and forty-eight; subsection (5) of section one hundred and ninety-seven; in subsection (2) of section one hundred and ninety-eight the words "allowed by two justices usually acting in and for the borough and has been"; section one hundred and ninety-nine, section two hundred and thirty-eight.
51 & 52 Vict. c. 41 .	The Local Government Act, 1888.	Subsection (2) of section thirty-three.
52 & 53 Vict. c. 63 .	The Interpretation Act, 1889.	Section five.
53 & 54 Vict. c. 17 .	The Public Health (Rating of Orchards) Act, 1890.	The whole Act.
54 & 55 Vict. c. 33 .	The Allotments Rating Exemption Act, 1891.	The whole Act.
55 & 56 Vict. c. 53 .	The Public Libraries Act, 1892.	In subsection (1) of section eighteen the words from "and (c) where" to the end of the subsection.
56 & 57 Vict. c. 73 .	The Local Government Act, 1894.	Subsection (1) and paragraph (a) of subsection (2) of section five; in subsection (1) (c) of section six paragraph (i); in paragraph (5) of section nineteen the words from "The power and" to the words "the parish meeting and"; in subsection (1) of section thirty-three the words from "all or any of" to the words "liabilities of overseers and"; sections thirty-four and fifty; subsection (3) of section eighty-one; in rule (7) of Part I. of the First Schedule the words "the appointment of an overseer" and the words "an assistant overseer or"; in rule (3) of Part II. of the First Schedule the words "and to appoint the overseers."
59 & 60 Vict. c. 16 .	The Agricultural Rates Act, 1896.	In section five the words "and in the basis or standard for any county rate and in any valuation made by the council of a borough or any other council for the purpose of raising the borough or other rate"; in section nine the definition of "rateable value."

(a) As to the date from which repeals operate, see s. 69 (4).

Session and Chapter.	Short Title.	Extent of Repeal.
10 & 11 Geo. 5. c. 17	The Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.	Subsection (1) of section sixteen.
13 & 14 Geo. 5. c. 39	The Agricultural Rates Act, 1923.	In subsection (2) of section six the words from "and section nine" to the end of the subsection, and the substituted definition of rateable value in Part II. of the Schedule.

(*a*) As to the date from which repeals operate, see s. 69 (4).

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